

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF DEL NORTE

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THE PEOPLE OF THE STATE OF CALIFORNIA,	)	
	)	
	)	
Plaintiff,	)	
vs.	)	No. 97-268-X
	)	
ELLIOTT SCOTT GRIZZLE, (H-10106),	)	
	)	
Defendant.	)	

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REPORTER'S TRANSCRIPT OF PROCEEDINGS

ON TRIAL BY JURY

Had in the Superior Court of the State of California  
in and for the County of Del Norte, beginning at 9:30  
O'Clock, A.M., Monday, February 8; Tuesday, February 9;  
Wednesday, February 10; Thursday, February 11; Tuesday,  
February 16; Wednesday, February 17; Thursday, February 18;  
and Friday, February 19, 1999. Before the:

Honorable ROBERT W. WEIR, Judge thereof

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Reported by: Lorraine Kaye O'Hara, CSR No. 5637, RPR

VOL. VII

COPY

APPEARANCES

For the People:

MICHAEL D. RIESE  
Interim District Attorney  
County of Del Norte  
County Courthouse  
Crescent City, California 95531  
By: JAMES FALLMAN, Sr. Dep. D.A.

For the Defendant:

RUSSELL J. CLANTON  
Attorney at Law  
725 H Street, Suite D  
Arcata, California 95521

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1 evidence that will be presented in this matter. They are an  
2 opportunity for the attorneys to sum up for you what they  
3 claim the evidence has proven.

4 And in doing that I assume they're going to be  
5 discussing the testimony you've heard, probably to some  
6 degree these exhibits, and I expect they also will discuss  
7 at least to a degree these instructions on rules of law that  
8 I've read to you. And I assume they'll do that accurately,  
9 but if you notice any difference between what you heard from  
10 the witness stand and from me and what the attorneys tell  
11 you, of course, you'll decide this case based on the  
12 evidence and on my instructions.

13 Because the Prosecutor has the burden of proof he  
14 makes the first closing summation, followed by defense  
15 counsel. Then, so that each side gets a chance to reply to  
16 the other, the Prosecutor's allowed a rebuttal argument.

17 Mr. Fallman.

18 MR. FALLMAN: Thank you, your Honor. Good morning,  
19 ladies and gentlemen. You have an awesome responsibility.  
20 As the judge told you, murder is an atrocious crime. I know  
21 when you deal with a case like this, if I was sitting in  
22 your chairs I'd be asking myself, that Aaron Marsh himself  
23 was killed, whether we care. It's a legitimate question.  
24 We care because whether this man was this person, Aaron  
25 Marsh, or a millionaire's son or a homeless person who'd  
26 never committed a crime, out in the rain behind Safeway, if  
27 they were a victim, if somebody did this -- I'm sorry, did  
28 this blunt trauma that Dr. Morris was talking about -- maybe

1 I've got the wrong one. The one that shows the shoe print.  
2 Oh, I think that's the one with the shoe print. If somebody  
3 did that to the millionaire's son or the homeless person or  
4 the slasher like Aaron Marsh, doesn't matter. Same shoe  
5 print, Mr. Barneburg and Mr. Baxter, I think they found  
6 here.

7 If somebody did that to anybody, the law is supposed  
8 to be -- that Lady Justice on that scales of justice, she's  
9 supposed to be blind. And I know all these things sound  
10 hokey. We've seen these symbols since we were little kids,  
11 but do these traditional values matter we teach our kids, do  
12 they mean anything, or is it something we've just abandoned  
13 or something that justice has to be afforded, it has to be  
14 blind on.

15 The D.A.'s Office or the Attorney General's Office or  
16 whoever it is has to deal with every case the same way,  
17 whether they be black, white, Hispanic, a murderer  
18 themselves, former leader, whatever. If they are a victim  
19 of a crime they are a victim of a crime. The principle,  
20 it's the principle of the thing. Justice must be dished out  
21 equally in all situations and murder is wrong every time.  
22 No matter who the victim. Nobody has the right to take the  
23 law into their own hands. Nobody. That's why we care.  
24 Because when we quit caring then we start dishing out  
25 justice specially to special people then we cease to be the  
26 democracy that we're supposed to be.

27 And we have a feeling, a basic thing that we teach my  
28 little kid at Redwood School. My little boy, my son was

1 doing a preamble at the school over there the other day and  
2 part of the Gettysburg Address, and is that -- the kind of  
3 stuff we have our little kids memorize and learn, hokey or  
4 is it something real? And part of the things that our  
5 children learn in all of our schools, in all of our county  
6 is that human beings have a right to life, a big right,  
7 liberty, and the pursuit of happiness.

8 And a Pelican Bay inmate such as Aaron Marsh -- I  
9 lost his picture. He doesn't have a right to liberty  
10 anymore because judges lawfully took that away from him for  
11 the crimes he committed. But he does have a right to life.  
12 And he does have a limited right to the pursuit of  
13 happiness.

14 He's in a cell in SHU twenty-three hours a day, or  
15 twenty-two and a half, whatever the -- testified to, and he  
16 gets one hour of yard out in the cement yard that's smaller  
17 than this -- about the size of this space that I'm in here.  
18 That's the idea of SHU. He doesn't get to go out to that  
19 big grass yard like the guys on the mainline do where all  
20 the prisoners go out together. He gets by himself or with  
21 his celly only in this little area one and a half hours.  
22 That's the minimum happiness he gets, and according to the  
23 pictures we have here he gets a TV. He gets a TV in his  
24 cell. And he can write letters, and we know from the  
25 visiting areas he gets to visit and he gets meals. He has  
26 some pursuit of happiness. It's not a lot of happiness, but  
27 food still tastes good to him. TV still is enjoyable to him  
28 and music on his radio still sounds the same as it does to

1 you to him.

2 He has the right to life, and to limited happiness.  
3 And the reason part of this happiness is gone is because a  
4 judge lawfully took it away under the law, not under the mob  
5 rule of a conspiracy like the Aryan Brotherhood. That's  
6 lawful. That's equal justice meted out to him or anyone  
7 under preaccepted non-ex post facto set of rules. Fair. He  
8 has the right to life, and limited happiness, but not  
9 liberty. At least not until his term is up, and in the case  
10 of guys that are in for murder probably they're not going to  
11 get parole. Ever. Although the Parole Board might be able  
12 to let some of them out.

13 So that's why we care. That's just a preliminary  
14 thing. You've got to take this as if this was some  
15 non-murder, just treat it on a matter of principle because  
16 we are a people of principle and I know that's hard.  
17 Because we've seen some of our leaders -- and I'm not  
18 talking about Clinton. We've seen some of our leaders in  
19 Washington that we send up there, we vote them in and ask  
20 them to go up and represent and then we see them go up and  
21 take advantage of that check-cashing and some -- some of the  
22 senators and representatives write a bunch of checks, and if  
23 we did that we'd get indicted or charged with a felony but  
24 they get to do it because they're senators and they get away  
25 with it so -- hopefully that changes, but even though some  
26 people in high places have gotten away with a little thing  
27 like those senators and representatives, the bottom line is  
28 the grassroots people such as yourselves who put people in

1 office with the expectation -- you never voted for somebody  
2 that you thought would go up and do something wrong in high  
3 office. You vote with the good-faith expectation that  
4 they're going to go pass laws and pass laws that are gonna  
5 work right and be enforced the right way and here is a place  
6 where you of the grassroots have to take this into your own  
7 hands and enforce these laws as you see them. Doesn't mean  
8 you have to vote for my side of the case or the other side  
9 of the case. It means you have to follow the law fairly,  
10 impartially, irrespective of what kind the victim was.

11 Doing this to a man's body is wrong. It's atrocious.  
12 Any way you look at it. And if we don't enforce these laws,  
13 we become a mob, too. We cease to be the democratic  
14 republic that we're supposed to be. This is what the Aryan  
15 Brotherhood turned Aaron Marsh into. It's humanity being  
16 disgraced by this atrocious conduct, not this individual  
17 human. It is that, too. But the laws say only courts and  
18 juries decide whether the facts are true and what punishment  
19 should be -- the Court decides the punishment. Not the A.B.  
20 There's no law that says people can get whacked, whatever  
21 that is.

22 You know, you've become experts on a subject you  
23 probably never wanted to know anything about. You probably  
24 know more right now about the inter-workings of prison gangs  
25 than most people in the United States. Or the world.

26 We started with this little road map. We said that  
27 this entire case is an Aryan Brotherhood conspiracy and that  
28 it's cerebral. And the reason it's cerebral is that jury

1 instruction that told you that both direct and  
2 circumstantial evidence are equally usable by you.

3 If this had been one of those cases such as in  
4 southern California where they find a young lady's body  
5 decaying out in the sand near Bakersfield, San Bernardino,  
6 and somehow they later through just circumstantial evidence  
7 figure out that -- maybe DNA or something -- well, there's  
8 more, there would be more if they had DNA, but sometimes  
9 there are a few totally circumstantial evidence cases is  
10 what I'm saying as well where they didn't have DNA, they  
11 didn't have live eyewitnesses, that kind of stuff. The law  
12 says that if it were a hundred percent circumstantial  
13 evidence case, if the evidence were there beyond a  
14 reasonable doubt, you could convict and courts have upheld  
15 such cases in the past. This is not that kind of case.  
16 This is a case with lots of direct physical evidence, direct  
17 testimony evidence, and circumstantial evidence. It's a  
18 combination.

19 You have some inmate witnesses who are accomplices.  
20 You have some inmate witnesses who are not accomplices. The  
21 testimony, however, of the accomplice inmate witnesses, as  
22 the judge told you, must be corroborated. He also told you,  
23 however, that the corroboration only need be slight.

24 Healy says certain things happened in a certain  
25 place. Jail records show that they could have happened on  
26 March 13th, 1997 in the place that he says they did. That's  
27 what Sergeant James testified to. Look at this when you get  
28 in. That direct corroborates it. Not only does that



1 corroborate it but these court minutes show that Mr. Grizzle  
2 did come to court that day, Mr. Healy did come to court that  
3 day, and the date on these for both of them for individual  
4 cases is 3-13-97. Corroboration.

5 Mr. Ridinger said he smelled pruno in the pod that  
6 day, I believe. I may have some of these facts wrong but I  
7 know you've been taking notes, and in case you haven't, the  
8 expert has. So you can have parts of this played back, any  
9 parts you want. He says he smelled it. Contreras says he  
10 not only smelled it but transported it. But they're both --  
11 Ridinger's not an accomplice but Contreras is because he  
12 knows -- he knew he passed this mixture of alcohol and the  
13 powder which he knew was -- green pills, he knew he'd passed  
14 that and he knew it so well that he went back to his  
15 cellmate Square Segura and said, "I think they're gonna  
16 whack that dude, I think they're doing something to that  
17 dude." So he was conscious that he had knowingly passed the  
18 poisonous concoction between cells at the request of none  
19 other than Rascal Grizzle.

20 But you don't have to take his word for it. These  
21 accomplices must be corroborated but he is. Sergeant  
22 Barneburg said when he and Toby Baxter came in to seize the  
23 evidence from the crime scene, he detected a small odor of  
24 pruno in the cell. That was a slight bit but you need -- it  
25 doesn't have to be huge. And the analogy, if somebody had  
26 \$10,000 in cash stacked up, and that is accomplice evidence,  
27 all you need is one penny to corroborate it. It need only  
28 be -- of non-accomplice penny to corroborate it.

1 But if Sergeant Barneburg weren't enough, the  
2 Department of Justice analyst Toby Baxter told you that the  
3 blood alcohol of Aaron Marsh was .15. Almost twice as much  
4 as the .08 which would be enough for you and I to get a  
5 drunk driving conviction off of if we did that, and Toby  
6 Baxter also said that. The more accurate -- I might have  
7 said that wrong. I think it was the breath test, or no, the  
8 urine, the urine was .15 and that the more accurate blood  
9 analysis of Aaron Marsh was .11. So go with the lower one,  
10 .11. The blood test. It's more accurate but it's still  
11 enough to be above .08. Corroborated by the science lab,  
12 the Department of Justice lab in Eureka, corroborated by the  
13 slight odor, the penny of outside corroboration of Sergeant  
14 Barneburg. Corroborated by the admission of Gary Littrell,  
15 co-conspirator.

16 Yeah, he was drinking. Littrell lied. He said, "I  
17 had one drink and a sip out of the other one. My stomach  
18 bothered me so I gave the rest to Aaron. There were five  
19 cups in there and so Aaron had three, three plus a large  
20 fraction cups and I had one plus a sip," which would be one  
21 plus a tiny fraction of a cup. That's a lie because again  
22 the Department of Justice analyst said the blood alcohol of  
23 co-conspirator Gary Littell was zero zero zero.

24 Was this -- rather than going through old charts, I  
25 think you remember what we said in the opening statement and  
26 I think it's been precisely what we said here with one  
27 change. There was another possible victim that Healy  
28 mentioned, and that -- I don't know if we got the name of

1 the guy but his initials were D.J. As well as Joey Hayes  
2 and Irish Gavin Shine being in the hat. Talked about in the  
3 leprechaun hat, the statement that Mr. Marsh was giving away  
4 too many free passes to people wearing green hats, a  
5 leprechaun's hat. In that cell where Marsh died there was a  
6 leprechaun. It was on this.

7 Was this an A.B. cell? We don't care whether these  
8 were Marsh's or Littrell's or both. It doesn't matter.  
9 Because the entire M.O. of the Aryan Brotherhood was for one  
10 A.B. to get another A.B. in there and kill them. It had  
11 happened before when Burnett taught Healy how to do it down  
12 in Chino in the early nineties. That's where Healy learned  
13 the method, and the first of the murders occurred by Healy  
14 himself killing Ruffo, his celly, A.B. on A.B. They  
15 voluntarily come in because they think they're coming in  
16 with their homeboys. They don't dare say no because that  
17 shows weakness and the A.B. will whack them anyway because  
18 they want strong, vicious people and they don't want  
19 weaklings.

20 So we don't care whose A.B. shamrock bookmark this  
21 was. We don't care if it was Littrell's or Grizzle's, and  
22 Littrell is never going to admit it's his because he won't  
23 even admit he's an A.B. Mr. Hart admitted it, though. You  
24 had one A.B. admit it yesterday, the guy with the black  
25 horn-rim glasses. We don't care because this letter, that  
26 one Mr. Littrell did admit because it says, "To Gary from  
27 Cleta," his lady.

28 We were told this by Healy. He explained what this

1 meant and I don't remember what he said but he said it was  
2 Aryan Brotherhood-related. It was in the cell.

3 Shamrocks, the symbol of the A.B. What you get when  
4 you are initiated is your rock, your shamrock. This is in  
5 the cell.

6 "Nobody does it like a Viking" was in the cell, and  
7 Mr. Littrell himself admits he had a Viking tattoo.

8 And these guys are white supremacist Nazi-types, and  
9 what would white supremacist Nazi-types read except a  
10 newspaper article about Nazi gang activities. We've deleted  
11 what the article was. But you get the -- but that's the  
12 title of what it was. From I think it was the Sacramento  
13 Bee, I don't remember, but the title was "Gang: They're  
14 into Neo-Nazi stuff authorities say."

15 What did Mr. Littrell tell you was on the back of  
16 his -- a huge swastika tattoo. Nazi Lowriders. Nazi  
17 Lowriders leading into the Aryan Brotherhood. The Aryan  
18 Brotherhood doesn't just get inmates. It gets people that  
19 are already partially trained like the Skinheads from  
20 southern California. The Sacramaniacs, I think they said,  
21 from Sacramento -- Sacramento and the Nazi Lowriders from  
22 throughout the State.

23 Who are the co-conspirators. They're this rogue  
24 gallery. These are these same people Mr. Healy identified  
25 as the Commission or the six-person Council of the  
26 supposedly, according to Littrell and others and Joey Hayes,  
27 nonexistent Aryan Brotherhood. Blinky Griffin, top picture.  
28 John Stinson, the person who sponsored Rascal in. Rick

1 Terflinger, the person who gave the order from these six to  
2 Healy who passed the order on to Rascal Grizzle to kill  
3 Aaron Marsh and Grizzle said, "I'll take care of it."  
4 Didn't say personally do it, "I'll take care of it." Dave  
5 Chance. J.P. Pendleton. And New York Crane. One of them  
6 we do know the nickname, New York, on just this one. I  
7 don't know about the rest of them.

8 Was it an A.B. cell with the philosophy -- the M.O.  
9 of the Ruffo killing by Healy and what Healy told you to  
10 expect? Yeah, it does. Map of Ireland still on the wall  
11 when Barneburg took the picture. Notice the cell.  
12 Perfectly neat. Perfectly neat. Books. Perfectly stacked.  
13 Weights, not tipped over by two large men. Well, at least  
14 one large man, Gary Littrell, and one man sixty-eight inches  
15 tall and a hundred and whatever it was pounds, a hundred and  
16 seventy I think they said. Look how neat that cell was.  
17 Gothic pictures, Viking-type pictures on the wall in that --  
18 in there. Again, is this an Aryan Brotherhood cell? Neatly  
19 stacked, nice -- doesn't look like there's been a fight.

20 And here's that thing on the bed sitting there. It  
21 looks like a sap. Now, they say it was used as a handle to  
22 lift weights with but -- Mr. Contreras heard a thud and then  
23 he heard another thud later after he was back in his cell.  
24 And Dr. Thor and Dr. Falconer told you that could cause the  
25 thud and that could do the blunt trauma that was found to  
26 the hyoid area of the neck. So -- thyroid -- I'm sorry -- I  
27 think they said hyoid. I'm not sure.

28 State-issued cups neatly stacked. Doesn't look like

1 there was a fight in here. The weights again. I don't --  
2 maybe I showed you that already. I don't want to do this  
3 twice and these are the ones we talked about so let me get  
4 these out of the way.

5 Did this guy attack and was this self-defense? I  
6 don't think so. Mr. Littrell took an hour, he says slightly  
7 over an hour to kill somebody, takes a bird bath, puts back  
8 on his T-shirt, cleans up the cell, flushes the one most  
9 damning piece of evidence that he could possibly flush and  
10 that's because that one is the one, the little string-like,  
11 that's the real garrote. This one, maybe or maybe not, but  
12 both doctors said the diameter is too thick. When you --  
13 when you look at the little -- things on the neck, they  
14 don't fit this.

15 The reason, why did he do this. This was a  
16 preplanned murder where he killed him with the little  
17 garrote, they put this in as a red herring and I'll tell you  
18 why in a minute, and then he cleaned the crime scene up and  
19 had an hour to do it, take a bird bath, hour and -- get that  
20 cell clean as heck, clean it up. No blood, no blood in the  
21 cell except the little bit found on garrote number two.

22 Why am I mentioning this to you? I'm mentioning this  
23 to you because the little garrote was flushed. The -- the  
24 one thing that would match with this here was flushed. And  
25 the reason that was done is it's the one that Littrell  
26 claimed was put around his neck when he alleges that this  
27 was self-defense. Littrell knew that that piece of evidence  
28 would have been sent to the Department of Justice for trace

1 analysis, microscopic analysis, and looking and -- analysis  
2 for the degraded skin your skin sheds each day. The DOJ  
3 would be able to find that and they would be able to show  
4 that there was absolutely no frictionally degraded skin from  
5 Littrell on the one that was supposed to have been around  
6 his neck. And that's because this is also -- this  
7 self-induced thing from the larger rope I suspect, I don't  
8 know however he did it, so he could claim self-defense.  
9 Both -- well, both doctors told you that this could have  
10 been a self-induced frictional abrasion.

11 What is the mind-set of this man when they take a  
12 picture afterwards? He doesn't look like -- oh, how was he  
13 when he walked up -- when Traylor saw him when he went up to  
14 Officer Traylor and said -- and lied and said, "My celly hit  
15 his head"? He didn't hit his head; he'd been strangled,  
16 garroted and thumped. He said, "Oh, he looked calm. He  
17 didn't look like he'd been in a fight." I mean, if you'd  
18 been in a fight for your life you'd be red. I'd be having  
19 trouble breathing, I'm asthmatic, but I think the normal  
20 person would be having trouble breathing. And the cell, you  
21 wouldn't be taking time to clean that cell up and get it  
22 picture-perfect. And you wouldn't -- be looking calm, cool  
23 and collected if somebody seriously attacked you. I'd be  
24 outraged. And even if you had to stay quiet because of an  
25 inmate code, your body language might show more than just  
26 calm, cool and collected. Littrell premeditated, did this  
27 and had plenty of time to think it out in advance.

28 Again, last issue, there's a map here somewhere; I

1 don't know what I did with it. Maybe it's right here. On  
2 the wall. Of Ireland. Nothing wrong with that. I'm part  
3 Irish too and I'm not trying to pick on the Irish people.  
4 It's just the Ireland or Irish Republican Army and the  
5 shamrock are the symbols of the Aryan Brotherhood. You  
6 wouldn't expect to find this on a Mexican Mafia member's  
7 wall or Black Guerrilla Family member's wall or Nuestra  
8 Familia member's wall. You find it on an A.B. wall next  
9 to -- no, that wasn't where it was found. I think that's  
10 just where they took the picture so I can't fairly say that.

11 Last thing -- well, Aryan Brotherhood people, very  
12 fascinated with Irish culture. A glossary of the Gaelic  
13 language of Ireland in the cell. As well as the map. So  
14 it's not just a coincidental thing. Oh, there's a couple  
15 things, cards there because it's a Saint Patrick's Day kind  
16 of thing. No, in fact, this murder didn't take place  
17 anywhere near Saint Patrick's Day; did it? The murder was  
18 on July 25th.

19 But do the Naz -- do the -- was this a cell of Aryan  
20 Brotherhood members? We know that they feed from gangs like  
21 the Nazi Lowriders. We know the Skinheads are largely  
22 affiliated with Hitler philosophy. We know that Nazis don't  
23 like Jewish people. They killed over six million.

24 And what does the inside of this book say? "To  
25 Chris" -- now, we don't know who Chris is -- "with respect  
26 and white brotherhood love. I give you this book.  
27 Remember, stay strong in your ideas, never allow yourself to  
28 show weakness to the Jews" -- and I -- I can't read the next



1 word -- something "people. Always remember your white" --  
2 something "long and" -- I'm not sure what that is.

3 All kinds of drugs in the cell. Unfortunately it  
4 looks like Pelican Bay is a place of great access. But it's  
5 in the cell, we don't know what that was. That may have  
6 been the source of the medicine that went up -- I'm sorry,  
7 down to Grizzle to mix into the state-issue cup. I assume  
8 like that because -- we see those cups all throughout these  
9 pictures. I assume that's a state-issue cup. This would  
10 have -- this could have been a place where those drugs had  
11 been. We know that they come in that type of container.

12 The records will show you that when Contreras thought  
13 it was thirty to sixty that they do issue them in sixty  
14 amounts, in sixty lots. That's Mr. Littrell's. We had both  
15 indomethacin and methocarbamol in the cell. And one of  
16 those is -- said it was Tylenol, indomethacin -- this one.  
17 This one was methocarbamol. Interesting, though, in the  
18 death cell was an empty medicine thing with the name Gary --  
19 Elliot Grizzle, Elliot Grizzle in the cell.

20 Mr. Grizzle had a continuing close relationship with  
21 that cell 'cause also found in this cell was that month, the  
22 July issue, not the book itself, but the cover was, that  
23 National -- yeah, National Geographic for the July -- you  
24 see Mr. Grizzle's name on there yet this was in the cell of  
25 Littrell and the murder victim.

26 Also in that cell a letter from Littrell's lady Cleta  
27 Baker to Gary, and I assume one of those cards was in there.  
28 But a whole stack of Rascal Grizzle stickers. Grizzle tried

1 to say he was using them and apparently he was, if this is  
2 any indication, for some sort of a Scotch tape purpose.  
3 Apparently they don't have real Scotch tape or at least the  
4 inmates -- whoops, at least the inmates don't in the prison.

5 Other incidental meds found in the cell. Pictures of  
6 this when the blood was -- there was some blood on there at  
7 the time when it was fresh. I think we've looked at all of  
8 these.

9 Methocarbamol, Dr. Thor called it methocarbinol. The  
10 others called it methocarbamol. When you look on this it's  
11 apparently called methocarbamol by the records of Pelican  
12 Bay State Prison but I'm not about to second-guess a man  
13 like Dr. Thor since he has two doctor's degrees. If he  
14 wants to call it methocarbinol I'm sure that's another name  
15 for it, but at any rate, Dr. Maukonen's testimony, you heard  
16 he did prescribe it and the records show that Littrell was  
17 prescribed within a month before the death of Marsh  
18 methocarbamol seven hundred and fifty milligrams, and I'm  
19 not sure how many are in that. Oh, maybe that "sixty" means  
20 sixty in the thing. I don't know. And he was also on 7 --  
21 that was on June 26th. On July 3rd getting closer to the  
22 date of the death he was given another -- looks like sixty  
23 seven hundred and fifty milligrams of methocarbamol, and on  
24 7-14 about -- eleven days before the murder Littrell got  
25 another seven hundred and fifty milligrams of methocarbamol.

26 And then two days before the murder on the day of the  
27 alleged fight, of the alleged hitting in the face with the  
28 stick which Ridinger told you that was a lie and that --

1 Rascal, not the man in the moon but Rascal came to him and  
2 said, "Hey, when Littrell's attorneys come we're gonna have  
3 everybody in this cellblock tell the same story. The story  
4 is that you heard a fight in there, you heard a fight in  
5 there and that Gary got hit in the eye with the  
6 channel-changing stick by Marsh." Ridinger said it never  
7 happened but he was asked to say that it did and he never  
8 heard any such thing that -- two days before on Wednesday  
9 the 23rd. Contreras said he never heard anything two days  
10 before on the 23rd. The records you have here will not show  
11 that anything happened. That wasn't logged by anybody in  
12 Pelican Bay on the 23rd. Traylor said he didn't hear it on  
13 the 23rd and Officer Weideman said he didn't hear any  
14 problems on the 23rd. It was a lie. Corroborating  
15 Ridinger. Ridinger doesn't need it because he's not an  
16 accomplice.

17 And then this last one, even though it's in yellow  
18 it's irrelevant because it was given after the date of the  
19 death so ignore that one. Why do we care about this  
20 methocarbamol and indomethacin of Gary Littrell? What's  
21 that got to do with Grizzle? Well, I'll tell you what I  
22 think it is. Circumstantial evidence, which you are allowed  
23 to use.

24 I said this case is somewhat cerebral. You have to  
25 do this in some right places. After Marsh has moved in and  
26 he's been there about six days to a week, Littrell is not  
27 gonna have any opportunity to mix the powder in himself  
28 because he would have to do it in front of his celly.

1 Hence, they have it done where he can't see it being done.  
2 Rascal puts the special recipe as Rascal later calls it, the  
3 bomb, as he says when he's talking to Rubidoux bragging  
4 about it and when he says, "We slipped a mickey in there,"  
5 Rascal mixes it so that the victim can't see that they're  
6 pouring something other than fruit and whatever they put  
7 into real pruno. I don't want to say legitimate pruno  
8 because pruno by nature is illegal in the prison so I don't  
9 know how to say it other than what I did. They needed to  
10 have that part of it be dissolved out of his view and he was  
11 already in the cell. That's why it was done upstairs -- or  
12 downstairs, I mean.

13 Grizzle, who's involved in trying to get Marsh over  
14 there? Now, sure, Marsh wanted to come over there too.  
15 Aryan Brotherhood people normally cell with Aryan  
16 Brotherhood. It doesn't matter. Ridinger said, "Yeah, I  
17 did send a message that Marsh wanted to come over," but  
18 Grizzle is so anxious to have -- to get him over there  
19 that -- I mean, it's not as if Littrell couldn't have  
20 written all three of these himself because he managed to  
21 write two of them and sign the third one, but the one that's  
22 dated 7-6 is in the handwriting not of the man in the moon,  
23 but of Gary Littrell.

24 And this is the same thing that was found at noon the  
25 other day by Sergeant McKinney in Clark's cell, a little  
26 gift. We had no idea there was that other evidence linking  
27 Clark and physical evidence to -- to Grizzle. But here is  
28 Grizzle's writing and when you compare this writing to this

1 writing -- this writing, better writing on here, you'll see  
2 that it is Grizzle. Yes, Grizzle's, and Littrell told you  
3 that he had Grizzle help him fill out one.

4 And there's a second item in evidence, a six oh -- I  
5 don't know what it is, a one fifteen or -- whatever it is,  
6 it's a green thing and all that is is it was found in the  
7 cell, in the death cell. This is Grizzle's handwriting  
8 found in Marsh and Littrell's cell and only reason I would  
9 ask you to use it for anything -- ignore what it says  
10 because I don't think it has anything to do with the case.  
11 Read it, it might, and if it does use it, but what I'm  
12 asking you to use it for is just a third way to double-check  
13 the handwriting. Is this handwriting which says "Grizzle"  
14 the same as this handwriting which was found in Clark's cell  
15 which says "Grizzle," the same as this handwriting which  
16 Littrell told you that Grizzle filled out for him, the one  
17 dated 7-6. I think when you see it you're going to agree  
18 that it is. Again this man in his own handwriting is  
19 involved in luring Marsh over to his death.

20 Does this man know that Marsh is in the hat marked  
21 for death? Absolutely he does. Because it is this man who  
22 asks Ridinger to whack Marsh while Marsh is still alive.  
23 And Ridinger who wants to step up from the Nazi Lowriders  
24 raises his hand after he finds out that the doors to the  
25 A.B. are not really closed like he thought. Healy  
26 corroborated that there was a period of time that the doors  
27 to the A.B. were closed. Then Ridinger learns that "whack"  
28 to the A.B. means kill rather than just stab. Ridinger

1 tells them when -- he comes back the next day, "I'm just  
2 going to stab him a few times, put him by the door on the  
3 floor, call the cops to come haul him out of the cell," this  
4 man says, "No, no."

5 Now, remember, it's really important to know that  
6 Marsh is alive while all of these conversations are taking  
7 place with Rascal Grizzle whom Ridinger said was doing most  
8 of the talking. He said Littrell is real quiet. In fact,  
9 this is happening at a time before Marsh is even moved over  
10 there yet. It's happened at a time when Rascal is still  
11 celled up with Gary Littrell. And in the presence of Gary  
12 Littrell, Rascal says, "No, Ridinger, that's not what we do.  
13 The A.B. way, we kill. 'Whack' means kill."

14 Ridinger goes back to his cell, thinks about it,  
15 writes him a kite saying that "I got to back off." He knew  
16 the consequences. He knew he'd be in the hat now. Because  
17 he's been in prison gangs too and he's now showing weakness.  
18 Got to be macho in prison if you want to survive.

19 You have -- you did -- everything we told you would  
20 happen I think has happened. We've learned what "whack" is;  
21 we learned what "in the hat" is; we learned what "the Brand"  
22 is. "The Brand" being the shamrock tattoo. Back when he  
23 did it. Now, we heard that recently some of them like  
24 Pendleton and Terflinger, some of those guys if you went in  
25 their cells you won't find any A.B. brands or tattoos  
26 because C.D.C. is now using those as tools to validate them,  
27 put them in SHU. So they've learned to be an A.B. and not  
28 have the actual tattoo.

1           You've heard Ridinger talk about moving up. And  
2       we'll talk about the leprechaun choke-hold when Littrell  
3       said, "I took his wind." The important one, now that's  
4       after he's dead and that is said in the presence of Grizzle.  
5       And at the time that's said Grizzle pipes in and said,  
6       "Yeah." No -- no. The statement was "after that I took his  
7       wind." Rubidoux who knew that Littrell was tough because of  
8       that little boxing thing and he's joking with him and  
9       saying, "Hey, Littrell, Gary, you're no boxer, why you got  
10      that tattoo of those boxing gloves?" They get to talking  
11      and then what he says to him, Rubidoux says, "Look,  
12      Littrell, you may be tough but" -- "but Aaron was no  
13      slouch." In other words, Aaron could fight back. Well,  
14      yeah, he can fight back if you didn't drug him and attack  
15      him from behind and give him pills that have a synergistic  
16      effect on his nervous system in addition to almost double  
17      the legal limit of alcohol, if you're using a .15.

18           Yeah, "Aaron's no slouch; he can fight back."  
19      Rubidoux says to Littrell, "Hey, you must have done pretty  
20      good there, Gary. Because Aaron's no slouch," and the  
21      crucial words, not out of the sky or over the loudspeaker  
22      but out of the mouth of that man right there were "we, we  
23      slipped him a mickey." Saying "hey, he wasn't a slouch but  
24      he couldn't fight back because the drink we gave him was a  
25      bomb, a mickey." Corroborating what the -- you already know  
26      from the laboratory that there was two drugs in his system,  
27      and not just any drugs, methocarbamol and indomethacin.

28           We said "garrote." Two garrotes now so that would

1 change. If you believe that. If that rope -- if that  
2 second one really was used at all other than for just window  
3 dressing, I don't know. Two garrotes plus Mr. Grizzle plus  
4 Mr. Littrell plus the Council of the Aryan Brotherhood plus  
5 Terflinger relaying their six-person decision to Healy to  
6 Grizzle -- I'm -- yeah, to Grizzle to Littrell plus  
7 indomethacin.

8 Please, you teachers on there -- I know I spelled it  
9 differently down there than there. I don't know which one  
10 is right so please ignore my spelling.

11 And alcohol and methocarbamol, people's planned-out  
12 premeditated murder, and we know this because they talked  
13 about killing him, even solicits being -- whacking him with  
14 Ridinger before he died. That's premeditated. That's  
15 before the fact.

16 We've talked about Littrell being a liar at .00 when  
17 he says he drank one drink plus a sip of the other one.  
18 We've already talked about that.

19 What we didn't talk about is the white flecks of  
20 medicine that Dr. Falconer found in his stomach contents  
21 during the autopsy over at Wier's Mortuary and the doctor  
22 said they're consistent with what, if you chewed up or you  
23 broke up powdered pills, white pills. Well, you got that in  
24 one of those two. I don't know if it's the indomethacin or  
25 the methocarbamol but those white flecks, very important in  
26 the stomach so add that into this mix when you get in -- in  
27 other words, the things corroborate. You actually find  
28 white powder in the -- looks like pills in his stomach, you



1 find traces of it in his urine, you find traces of it in his  
2 blood, you find the kinds of exact medicines used in the  
3 cell where he died. Equals asphyxiation, this is --  
4 asphyxiation with blunt-force trauma and -- to the throat.  
5 Both Dr. Lawrence and Dr. Falconer agree on that. I think  
6 we've covered that.

7 I think -- if you're not convinced that the Aryan  
8 Brotherhood exists by now, nothing's ever gonna convince  
9 you. You did have Mr. Hart, the only one of them that would  
10 admit it, say, "Yeah, I'm on the Council," then he went  
11 ahead and took that picture of all six of these rogues and  
12 identified them. Five of them from here and one from  
13 another prison, I don't remember where. Knew 'em all and  
14 admitted he was a member.

15 Captain Dillard says in California, in California  
16 prisons it's more -- the A.B. not only exists but it's more  
17 powerful than the Italian Mafia. We know how big the  
18 Italian Mafia's in the unions but in California prisons he's  
19 only seen two of them. I -- maybe that's because they're  
20 all in federal prisons, I don't know, but whatever it is,  
21 Captain Dillard, 27 years of experience and the head of the  
22 gang unit at Pelican Bay told you that the -- that the Aryan  
23 Brotherhood is more of a problem, more powerful than the  
24 Italian Mafia. Not the Mexican Mafia. They're a problem in  
25 their own. But the Italian Mafia.

26 Dan Smith, our expert from Sacramento and a teacher  
27 to officers about gangs and the Aryan Brotherhood tells you  
28 it exists and is a problem and it exists not only in this

1 state but in the prisons in all of the western states and  
2 somewhat back east and in the federal system.

3 Healy, another member besides Hart told you it  
4 exists, he was in it, and he -- he did the first local  
5 murder using the M.O. that he used which was followed, again  
6 replicated by these guys because it works, partially once  
7 and they -- why -- why change anything if they're successful  
8 the first time? So if that doesn't convince you nothing's  
9 gonna convince you.

10 Immunity. Protective custody. And possible benefits  
11 of Title 15, up to a year off of their sentence. Yes.  
12 Those things have been offered by the Prosecutor to various  
13 witnesses. Not to all of them. Clark came to us. We  
14 didn't even -- we didn't know he -- what's going on.  
15 Ridinger came to us. Was it Ridinger? No, Rubidoux came to  
16 us through George Mavris. One thing they all wanted the  
17 minute they were ready to testify was protective custody and  
18 immunity for any things that they may accidentally admit in  
19 telling us, in helping us, but -- yes, you have to in some  
20 cases deal with very bad people like Healy, a murderer,  
21 because to get to the heart of the conspiracy you won't get  
22 there any other way.

23 Mr. Smith wrote a statement for me to use and I'm  
24 going to read it to you because I think it really goes to  
25 the heart of this. Here's what he wrote. "Testimony or  
26 information from informants allows light to shine in on very  
27 dark workings of the gang. What is hidden becomes visible."

28 The Italian Mafia, Valachi, a murderer, made a deal

1 with the FBI and rolled against the Genovese crime family  
2 back east up in Appalachia, and yeah, the U.S. Attorney and  
3 the FBI did make a deal with that devil, Mr. Valachi, but it  
4 was so they could take down bigger people who were causing  
5 murder after murder after murder, vice after vice after vice  
6 on the street. So yeah, you make a deal with mid-level  
7 devils to take care of bigger devils in the interest of  
8 society and it is legal or it would not be allowed in the  
9 federal courts or in any courts. It would be thrown out if  
10 it were not legal. So let counsel rant and rave about it as  
11 he will and as he should from the defense perspective.

12 Valachi, a murderer, rolled on the eastern Mafia.  
13 Jimmy the Weasel -- what was his last name?

14 MR. SMITH: Fratianno.

15 MR. FALLMAN: Jimmy the Weasel, and the last name you  
16 heard. Rolled on the west coast mop, another murderer,  
17 enforcer, terrible Mafioso, bad man. But it was necessary  
18 because they would not have brought down that part of the  
19 west coast Mafia without dealing with the little devil Jimmy  
20 the Weasel.

21 Same thing with the east coast Genovese family. John  
22 Gotti brought down -- if you've been watching A & E  
23 recently, that's the only reason I know this last one,  
24 Jimmy -- no, Sammy the Bull, I don't remember his last --  
25 his last -- Sammy the Bull, an enforcer murderer gave inside  
26 testimony for immunity and witness protection, the federal  
27 witness protection just like Healy is doing. And brought  
28 down John Gotti. And John Gotti, big man of the New

1 Jersey/New York Mafia is now doing life in federal prison  
2 under a RECO racketeering charge because the federal  
3 government used Sammy the Bull.

4 Sammy the Bull is a lowlife. Valachi was a lowlife.  
5 Jimmy the Weasel was a lowlife. Say the same thing here.  
6 And I don't blame you. But you -- if you don't see why --  
7 (Shaking head) -- I don't know what to say. It has to be  
8 that way. People -- the Mafia and the Aryan Brotherhood  
9 don't come out on loudspeakers and say, "We're doing this  
10 and we're gonna do that," no. If you don't get inside  
11 testimony you don't get them at all. So that's why deals  
12 with the devil are made. To get to organized crime  
13 conspiracies, your criminal conspiracies, you got to do it.

14 In this case Mr. Healy didn't come forward just of  
15 his own good will. Mr. Healy came forward because his  
16 conscience finally got to him that he killed his best friend  
17 and Aryan Brotherhood murderer, Mr. Art Ruffo, on lies  
18 about -- by one of the Council members Blinky Griffin saying  
19 lies that just simply didn't hold up after unfortunately the  
20 damage was done, the victim was dead.

21 Now, that devil Healy did get -- this is a sentencing  
22 by Judge Petersen, an aggregate sentence of fifty years four  
23 months. Now, that doesn't just mean on the voluntary  
24 manslaughter and the two spear tips and whatever else he was  
25 convicted of. It's all in here so you could see what  
26 happened. The judge under our sentencing rules, Judge  
27 Petersen, had to go through and resentence the Solano case  
28 where he had stabbed an officer with a spear in the neck.

1 He is a bad, bad man.

2 The Sacramento case I don't know what he did there.  
3 Possession of a weapon. Another Sacramento case, looks like  
4 an aggravated assault. This may be the one where he said he  
5 stood up in court and stabbed his -- somebody, co-defendant.  
6 Another Sacramento case, all of those are part of that fifty  
7 years sentence.

8 But if he is 35 years old, and that's I think what he  
9 said. He looks like he's about that age. A 50-year  
10 sentence, that doesn't mean he's going to get out when he's  
11 85. You heard Donna Sackett come in and say his earliest --  
12 MERD, come out using that as a bad word in French, I mean,  
13 it's -- a minimum early release date is round, he can't get  
14 out no matter what he does until the MERD -- did she say  
15 2037? And if he bad-behaved then he goes the full time but  
16 his aggregate sentence is still this, what the judge gave.

17 THE COURT: This be a good time to take a break?

18 MR. FALLMAN: Yes, your Honor.

19 THE COURT: We'll recess for ten minutes, ladies and  
20 gentlemen. Remember the admonition. Ten minutes.

21 (A brief recess was taken.)

22 THE COURT: We have all jurors, the attorneys and the  
23 defendant.

24 You may continue.

25 MR. FALLMAN: Thank you, your Honor. Ladies and  
26 gentlemen, as bad -- as admittedly bad as Healy and our  
27 other witnesses are, the others aren't as bad as Healy, as  
28 bad as they are taken together, one of the things to keep in

1 your mind when you think about them is every one of them has  
2 stepped across a line where they can never go back. No  
3 matter who they were. They're all dead men. If the A.B.  
4 can get anywhere near 'em they are dead. They are all in  
5 the hat forever.

6 And especially Contreras. Because Contreras will be  
7 in the hat from his own gang and for testimony because you  
8 don't testify for the D.A. no matter what gang. He'll be in  
9 the hat with the Mexican Mafia after him because he's a  
10 northern Mexican so the southern Mexicans are after him  
11 anyway. He'll be in the hat with the A.B. because he  
12 particularly testified twice against the A.B. So he's a  
13 dead man if they find him.

14 They're all dead men if found. So for whatever  
15 that's worth, they chose to come forward and at least one  
16 time in their life do the right thing.

17 I have put this in red hopefully not to be too hokey  
18 about it just so that maybe somebody might want to keep  
19 track of how many ways the defendant personally is tied to  
20 this murder and this conspiracy. And if I accidentally use  
21 one element twice, don't count it twice if somebody keeps  
22 track of this.

23 As I remember the evidence, Mr. Grizzle did most of  
24 the talking to Mr. Ridinger. Am I right here? Ridinger  
25 said that he saw a northern Mexican carrying pruno and that  
26 he smelled the odor of pruno. He saw "N.L.R.," Nazi  
27 Lowrider, on the neck of the defendant. The defendant  
28 solicited the murder of Marsh before it happened. There's

1 your premeditation. Before it happened. Solicited the  
2 murder of Marsh. Not the guy that did the strangling. This  
3 co-conspirator did the solicitation of the murder, asked  
4 Ridinger to do it.

5 This defendant said Marsh is not pulling his own  
6 weight. This defendant after the guy came back and  
7 explained how he was gonna do it, he was gonna stab him, put  
8 him on the floor, call the cops out, said, "Nah, 'whack' to  
9 us means kill."

10 This defendant made the comment -- forgive my  
11 spelling and writing -- about wanting a dance partner when  
12 the dance started. "The dance" meaning now that Grizzle and  
13 Littrell were gonna move to different cells and Marsh was  
14 gonna come over with one, Littrell, which is how it  
15 happened, he wanted a dance partner too, Joey Hayes.

16 You heard testimony it was supposed to be a twin hit  
17 if possible. You heard testimony from Healy that the reason  
18 that this defendant wanted to do the -- personally do the  
19 hit on Joey Hayes was because Joey Hayes was considered his  
20 twin because they got initiated, they got their rock or  
21 their shamrock the same time about three years ago and he  
22 took it personally when Joey Hayes let Gavin Shine leave the  
23 cell alive, and the A.B. took it personally as to both of  
24 them because Marsh let Gavin Shine leave the cell alive.  
25 Both of them were in the hat for failing to kill Gavin  
26 Shine.

27 Ridinger said that a northern Mexican in 220, that's  
28 where Square Segura and Wino Contreras were from, took a bag

1 of wine from Rascal to Gary; he said he saw that. I believe  
2 that's what he said, to Gary and Marsh. He said a northern  
3 Mexican had a worried look on his face when he went past his  
4 cell at a later time, this one. He didn't say which. We  
5 don't know from the testimony that I could tell whether that  
6 was Segura or Contreras. I think the implication is it's  
7 probably Contreras because Contreras himself said, "I" -- he  
8 said something to Segura later that lets us know that he was  
9 worried about something he saw in the cell because he said,  
10 "I think they're trying to whack that dude," so this is  
11 probably Contreras, but it could have been Segura because  
12 Segura was out there tier tending too. But I think it's  
13 Contreras that Ridinger was referring to.

14 Rascal, the defendant, asked Ridinger to perjure  
15 himself to Littrell's lawyers and to his investigators with  
16 a phony story about using the channel-changer stick about an  
17 alleged hit to the face on Wednesday the 23rd, two days  
18 before the murder, which didn't even really happen.

19 Now, you really think -- think about Littrell, that  
20 liar. You think that if on the 23rd that Aaron Marsh had  
21 attacked him and so he had to get him in a head lock and  
22 choke him out on the 23rd, do you think there would have  
23 ever been a time that either one of them wouldn't have been  
24 watching each other the next 48 hours? And yet he says that  
25 happened to him. He says the guy tried to attack him so --  
26 is he really gonna turn his back later, two days later and  
27 have -- let somebody put a -- garrote, give somebody a  
28 chance? He had to know there was a shoe string, or if there



1 were really two of them in the cell, a big old jump rope, he  
2 had to know. Would you turn your back? I don't think so.

3 Again, I don't think it happened and I think that  
4 reasonable interpretation is that Ridinger told you the  
5 truth. The story he said is that Rascal, not Gary, but  
6 Rascal was telling the people on the tier, including him,  
7 saying, "Let's get the same story together and just say we  
8 heard a fight and say that Gary got hit in the face," and he  
9 tried to -- in fact, Littrell got on the stand and said that  
10 happened two days earlier so Gary adopted that perjury and  
11 repeated it to you.

12 Michael Contreras -- actually, let me just see if  
13 there's anything else I wanted to say about Ridinger before  
14 I go on. I think we've talked about most of that. Yeah.

15 Oh. He did hear -- Ridinger did hear Littrell say to  
16 Officer Traylor up in the control booth, "I think you better  
17 check my celly. He fell and hit his head." So he  
18 corroborates that at least on that, which was a lie, at  
19 least that he heard Grizzle tell that lie to the control  
20 booth officer and he corroborates what Traylor heard  
21 accurately too.

22 Let's go to Michael Contreras. Contreras says he  
23 heard nothing on the 23rd, tending to prove this was a lie  
24 as Ridinger said it was. Michael Contreras says that after  
25 he got his asthma inhaler, he was squatting down -- he  
26 saw -- he saw the defendant, not Gary Littrell but this man  
27 here, putting the crucial combination of synergistic drugs  
28 in alcohol and pruno.

1 Later on after he's coming back he stops by Rascal's  
2 cell after this event and after he's gone out to the yard  
3 and breathed on his asthma inhaler, he comes back in and  
4 walks up past the cell and Rascal, not Littrell, this  
5 defendant, says, "I have the perfect recipe." Talking about  
6 what he's pouring in there, the perfect recipe.

7 Then at some point shortly after that Contreras says,  
8 "I think they're gonna take that guy out," or "I think  
9 they're gonna whack the dude," I don't remember the quote,  
10 but Miss O'Hara has it and you heard it. Maybe you took  
11 it -- some of you are taking notes. Maybe some of you know  
12 what it was but it's something like that he says to Square  
13 or to Segura. "I think they're gonna kill that guy" is the  
14 essence. That's not exact words.

15 Then he goes back and he looks around and he sees  
16 Marsh clumsy and dizzy like he's uncoordinated trying to get  
17 up and he hears Littrell saying, "Get up, wood," and we  
18 heard Healy tell us what "wood" means in the -- in the  
19 system, means "peckerwood." It means a good inmate or  
20 somebody that follows the inmate code. He hears the words,  
21 "Get up, wood," and he looks over and sees the guy -- that's  
22 the impression I got, body language, couldn't get up.

23 And then he goes back. Then he says to Rascal,  
24 Contreras says, "Hey, your homeboy's pretty messed up." And  
25 then Rascal says in response to the -- to Contreras's  
26 statement "your homeboy," meaning Marsh, "is pretty  
27 messed" -- oh, Rascal had asked him, "Hey, what's going on  
28 up in that cell," and in response to that he says, "Man,

1 your homeboy's pretty messed up," Contreras does. Rascal  
2 responds again saying, "Yeah, I've got the perfect recipe."  
3 That's the point that the -- actually it was here, not here.  
4 I had it in the wrong place. Perfect recipe. Perfect  
5 mixture of drugs and alcohol. Whoops.

6 Contreras tells us that he delivered a TV adaptor and  
7 a book that looked a heck of a lot like this one, Bethany's  
8 Sin, for Gary Littrell to Rascal. But Contreras couldn't  
9 swear it was this book. The officer seized this book and it  
10 showed that it was last checked out to Gary Littrell. Gary  
11 Littrell takes the stand and says, "Well, it was a soft-back  
12 book by Robert McCammon," and when I showed him this book  
13 which says "Robert McCammon," Littrell corroborated  
14 accomplice Contreras by saying, "Yes, this is the book,"  
15 even though Contreras himself couldn't swear it was,  
16 Contreras wouldn't swear to something he wasn't sure of, but  
17 Mr. Littrell says, "Yes, this was the book." Bethany's Sin.

18 Now, why do you turn in if you're Gary Littrell a  
19 book which normally you could put in the slot yourself, why  
20 do you send it to your co-conspirator to let him put it in  
21 the slot? You do that because you know you're gonna be  
22 going to the hole or a different area. They're already in  
23 the hole. SHU is the hole, but he's going to be going to an  
24 isolated area all by himself, single-celled, and he's not  
25 gonna be able to deal with anything that's left in his cell  
26 because he knows how it works. Cops come in there and see  
27 that -- seize everything that's in the cell which is exactly  
28 what Barneburg and Toby Baxter did, and Reppond, so he knows

1 this book isn't gonna get turned in so he sends it over and  
2 the adaptor.

3 Why does he send the adaptor? Because if this stuff  
4 gets seized and sits in evidence forever for trial, if he  
5 gets it out of the -- out of the crime scene his buddy can  
6 use the TV adaptor. He's just trying to do his buddy a  
7 favor. He does that, but more importantly is the  
8 television. He had bought a new TV. But -- and I don't  
9 have the photo, but you -- in one of those pictures there's  
10 a TV on. You see it, and I -- you heard about it from the  
11 stand. That other TV is not this new TV. That other TV was  
12 a state loaner.

13 Now, he -- Gary Littrell used a very slick, subtle  
14 ruse, trick, to play on officers so that he wouldn't lose  
15 his brand-new TV which he had just bought like in May, the  
16 receipts and stuff are in here, and including the  
17 instructions on how to time it and do all the things that  
18 need to be done to set its gadgets that are on it. Now, he  
19 claims that this brand-new TV wasn't working right so he --  
20 he -- sends this letter to the repair shop at C.D.C. and he  
21 sends this before the murder. That's important. Well, it  
22 doesn't have a date on it. But he sends it -- his testimony  
23 was that it was before the murder so we'll -- believe him at  
24 least on that one thing.

25 He sends a letter out to them saying, "Hey, come get  
26 my TV. It's shutting off automatically," or whatever the  
27 heck it is. But just a little bit of reading would have  
28 solved the problem and we know that people in that cell can

1 read. They have books. We know they can read. We know he  
2 read Bethany's Sin at least, and whether he read that other  
3 one who knows, but he read Bethany's Sin. It's his book.  
4 He can read.

5 He's not sending that TV out because there's anything  
6 wrong with it. Mr. Clanton never called anybody from the  
7 repair department to say that that was a broken TV. It  
8 wasn't broken. The reason he sent that TV out is he knew he  
9 was gonna murder somebody and he didn't want to lose  
10 something he paid cash for because they don't have a lot of  
11 cash on their books in prison. He wanted the TV to be out,  
12 not at the crime scene at the time of the murder. He'd get  
13 a loaner in there so that if they seize that out of there  
14 the State is only seizing its own TV.

15 So what happens is, he murders the guy, the TV he's  
16 paid for is not in the crime scene so Barneburg doesn't  
17 seize it. DOJ doesn't seize it. It's not in any of the  
18 pictures. The loaner's in the pictures. So then when they  
19 move him to his isolated cell he can say, "Hey, send me back  
20 my fixed TV from the repair area. You can't" -- "you can't  
21 claim it was evidence because it wasn't even at the scene of  
22 the crime." Then he doesn't waste the money that he spent  
23 with his receipt in there buying this TV.

24 See, a TV, like I was saying, they have rights to  
25 have a few niceties and one of the nicest things you can  
26 have in SHU is a TV. So knowing he's going to commit this  
27 murder he ain't gonna give up, he's not -- he isn't going to  
28 give up the thing that he spent hard-pressed cash, earned

1 cash for. He's not gonna let it be seized along with every  
2 single item in that box that Reppond was talking about and  
3 that Barneburg did. He makes sure -- that's premeditation.  
4 He gets that expensive TV out of there so he can ask for it  
5 to come back to his new cell where he knows he's gonna go  
6 and he knows he's gonna get isolated because he knows he's  
7 gonna deserve it after killing somebody. He knows that's  
8 their procedure. Again, that TV is evidence of  
9 premeditation.

10 Bethany's Sin, Contreras hears thump number one.  
11 We've got that thing, it looks like a sap and the doctor  
12 said it could cause the blunt trauma. Later, and I don't  
13 remember how much time, he hears thump number two, and then  
14 he hears the defendant -- the co-conspirator Gary Littrell  
15 say to Rascal, "There's no other way." Well, we know from  
16 Special Agent Smith and from Brian Healy and from Rubidoux  
17 that they talk in code. Bottles and stoppers on the Erie  
18 Canal. I don't know what the bottles mean but the stoppers  
19 on the Erie Canal is cops on the tier. Ear, tier, Erie,  
20 coppers, stoppers. We know they talk in code. "There's no  
21 other way," the reasonable inference of what that code would  
22 mean through the vent is that "he's dead, I've done what" --  
23 "you sent me the stuff down and I used it. He's dead.  
24 There's no other way. It's over." That's code. That's the  
25 reasonable inference.

26 Contreras had seen that quantity somewhere in there;  
27 the medical records verify that that is the quantity. We've  
28 talked about this. We'll -- won't go over it again.

1 Contreras, when -- on cross-examination was talked to  
2 by Mr. Clanton said, "Yeah, I didn't do anything wrong.  
3 Yeah, I was mistreated. Yeah, the D.A." -- he implied he  
4 was forced to testify. But then when I asked him, "Sir,  
5 before anybody talked to you, before I even came out there,  
6 were you offered an attorney by Lieutenant Boyll before  
7 there was any questioning?" And his answer was "yes." If  
8 he doesn't exercise his Sixth Amendment right to an  
9 attorney, that's not our fault. The law only says we have  
10 to offer him. The other part of that equation is he has to  
11 accept. He didn't accept. He wasn't mistreated. He told  
12 you he was offered the attorney.

13 He also wrongfully told you that he -- he -- didn't  
14 think he'd done anything. But then he admitted, "Wait a  
15 minute, yeah, I saw the guy pouring that stuff in that  
16 alcohol. I did tell my celly, 'I think they're gonna whack  
17 the dude.' And yet I knew they were gonna whack the dude  
18 after I had passed the kind of concoction that could cause  
19 him not to be able to protect himself so yeah, I know I did  
20 take that stuff down from 118 up to 218. Maybe I could be."  
21 And that was pointed out to him.

22 He was told, "Hey, don't you realize somebody looking  
23 at this might see you as part of the conspiracy since you  
24 took the poison combination that caused this guy to not be  
25 able to fight back? From one cell to the other one?" Maybe  
26 so. He did know. And he had to know because he knew death  
27 was a possibility because he said, "I think they're gonna  
28 whack that dude."

1 He wasn't mistreated. And he was offered an  
2 attorney. He said that he took the thing in the -- in, the  
3 drug and the pruno in the manila envelope you felt. It was  
4 possible, the officers told you, that that shaped device can  
5 in fact fit under those doors in these kind of cells. I  
6 guess it's those cells. I don't know if it's the exact same  
7 shaped cell or not.

8 Frederick Clark, an extremely, extremely interesting  
9 man. The man who came up with this evidence right out of  
10 his cell at lunch the other day seized by Sergeant McKinney  
11 right there. Corroborating himself and tying this  
12 co-conspirator to this conspiracy in this defendant  
13 co-conspirator accomplice's own handwriting.

14 What does Mr. Clark tell us? He says, "Rascal asked  
15 me to perjure myself to discredit Healy for Littrell's favor  
16 at Littrell's trial. He wanted me to lie about Healy to  
17 lower Littrell's exposure from murder first down to murder  
18 second." I said, "Well, did you realize that's exactly  
19 what" -- "you were successful, that that's what the jury  
20 did, they lowered" -- "Littrell's thing from murder first  
21 down to murder second, that's what they convicted him of?"  
22 And he said, "Yeah," and he said he'd been sent by this man,  
23 not by Littrell himself but by this man, Rascal, to help  
24 co-conspirator Littrell to blind-side the D.A. And I said,  
25 "Well, did you blind-side the D.A.?" He says, "Yeah, I  
26 guess I did because what happened was what we expected."

27 He was paid five hundred bucks to broadside the D.A.  
28 in the Littrell part of this homicide. Co-conspirator's



1 case. He successfully did it. He told you that he had  
2 sources. Now, we don't know what the sources are but just  
3 guessing, usually it means that somebody's got a cousin or  
4 somebody in law enforcement somewhere with access to  
5 computers or else a cousin who's a private investigator who  
6 has sources that private investigators have to check where  
7 people are.

8 And after he had taken the five hundred and perjured  
9 himself for the defense in the last case, broadsiding the  
10 People's case, they asked him to do one more thing. And as  
11 bad as he was, he said, "When they asked me to find  
12 Shannon," and I don't want to say her last name but I'm  
13 gonna call her Shannon Healy even though her last name isn't  
14 Healy because she's Mr. Healy's daughter, "when they asked  
15 me to find that little girl," and he said eight years old  
16 and at the time she was eight years old because this was two  
17 years ago, Healy said on the stand she's ten now.

18 I screwed up. I said, "Was your daughter eight or  
19 what?" He said, "No, she's ten." Well, when I think about  
20 that that's right. The murder was two years ago so she  
21 would have been eight at the time that Clark would have been  
22 having this conversation. It just dawned on me.

23 Said -- he was told that they wanted to find this  
24 eight-year-old girl Shannon because they can't reach out and  
25 touch Healy because he's in Federal Witness Protection. So  
26 they want to reach out and touch his daughter. Kill her.  
27 And this black man said, "I'm not gonna let these Ku Klux  
28 Klan types, white supremists make me an accomplice or a

1 co-conspirator in another Polly Klaus kind of thing. I'm  
2 not going to put some little girl face down in a shallow  
3 grave for these Ku Klux Klans." That was his testimony.

4 And I said, "Well, why would you as a black man come  
5 testify for the Aryan Brotherhood in the first place knowing  
6 they're white supremists and they don't even like blacks?"  
7 And his answer, if I remember -- I don't remember what he  
8 said exactly but I think he said, "Money." And if he  
9 didn't, what else would it be? He did take the five hundred  
10 bucks, right? Not too honest, reputable to -- refuse the  
11 money, but -- to perjure himself on Healy, but somewhere  
12 down in his soul was a spark of humanity. There was a line  
13 that even that inmate would not cross and he was willing to  
14 put himself in the hat for the rest of his life knowing the  
15 A.B. will kill him now if they can find him. Because even  
16 he wouldn't allow the little girl to die.

17 And the interesting thing is Healy said, "I never  
18 talked to that black man." And that's probably like Healy  
19 because Healy in the -- back in the old days was a white  
20 supremacist. He wasn't likely -- he was working his way up in  
21 the Aryan Brotherhood -- to be out being friendly with  
22 blacks so that's probably just from logic true. Healy said,  
23 "I never talked to Frederick Clark. I don't know him and I  
24 certainly never told any black man about my family, but the  
25 Aryan Brotherhood knows all about my family."

26 And how in the world would Clark have learned the  
27 first and last name of Shannon if Healy didn't tell him  
28 unless somebody in the Aryan Brotherhood told him. The fact

1 that he had the right name of Shannon corroborates that it  
2 happened. The fact that he had the right age of eight years  
3 old and two years ago it would have been -- she would have  
4 been eight if she's ten corroborates that this black man  
5 told you the truth.

6 Question to Healy. "Hey, could the Aryan Brotherhood  
7 be capable of doing something so foul as going after  
8 somebody's family just because they can't get to the person  
9 that they think is a snitch?" And we know they think he was  
10 a snitch because Littrell told Rubidoux, "Healy's on the  
11 diving team." In other words, testifying -- diving and  
12 testifying for the People.

13 Well, Mr. Healy told you that in the Price case, you  
14 know, we talked about the Price case where they killed Steve  
15 Bailey's grandfather in Humboldt County and other people in  
16 Steve Bailey's family because Steve Bailey testified against  
17 the Aryan Brotherhood, and Steve Bailey was in the witness  
18 protection and they couldn't get him so they killed his  
19 family, so Healy says, "Yeah, they're capable of doing it."

20 We've talked about that. Talked about this. So you  
21 have two instances now of this man trying to suborn perjury  
22 in this case, and why would you suborn perjury unless you're  
23 guilty? There's no reason to take a chance on suborning  
24 perjury if you're innocent. He suborned Ridinger by asking  
25 him to tell a lie about this stick incident to protect --  
26 co-conspirator Littrell, and he paid for perjury from Clark  
27 to try to impeach Healy under Clark again to help his  
28 co-conspirator Littrell. Why do you help somebody if you're

1 not in conspiracy with them? Why take that chance twice?  
2 Because it's part of the conspiracy. It's simple.

3 Vernon Rubidoux. You heard the defendant say, "I  
4 took that punk's wind." The records corroborate that it  
5 could have happened. The times sequence stated by the  
6 officers corroborate that this indeed could have happened.

7 Sergeant McKinney says you can talk -- talk through  
8 these -- I've got the wrong events. I'm mixing up events.  
9 It's easy to do.

10 These records show that this could have happened.  
11 You don't have to just go by him. He gives a date, he gives  
12 the date and he says where and who was there and it was.  
13 Says -- the co-defendant while this defendant was there  
14 says, "I took that punk's wind." Well, we know it was a  
15 strangulation so that code -- again, they're talking in code  
16 but that has to mean to a logical certainty that he  
17 strangled him.

18 "He didn't have no rock coming." Shamrock, in other  
19 words. Marsh had become initiated but hadn't made his bones  
20 and when he had a chance with Gavin Shine he didn't do it so  
21 he's a punk and he didn't have no rock coming. He was  
22 giving out too many free passes to those wearing big green  
23 hats. Gavin Shine in the hat. Green hat, Aryan Brotherhood  
24 hat. That punk Marsh wasn't putting in no work or pulling  
25 his weight on the mainline. He wasn't going out and  
26 stabbing people or molesters or whatever they're telling  
27 them to do.

28 When Rubidoux told Littrell, "Aaron ain't no slouch,

1 Rascal, this defendant, piped in, and it's crucial, it's  
2 really important that you focus on the word "we, we put a  
3 mickey, we put poison in his drink," so even if he isn't a  
4 slouch, he's tough, he can't fight back. "I made him a  
5 bomb," and then Rubidoux says, "I guess you're gonna" --  
6 "you're gonna" -- "Deadeye beat his case." In other words,  
7 Deadeye successfully knocked his murder down to a  
8 manslaughter which is true. "Yeah, but that" -- forgive me,  
9 "yeah, but that fucking punk's on the diving team. I'm  
10 gonna use Deadeye's defense, though, to fool the jury in  
11 Ruffo's murder. Use the same M.O."

12 The Marsh murder is the second -- see, there have  
13 been two murders in this conspiracy. The first was Ruffo;  
14 the second is Marsh. Okay. So he said -- they're gonna try  
15 to use -- the A.B. is gonna use the same defense.

16 Rascal then says A.B. was sending two shooters to  
17 kill Wino. Rubidoux didn't even know Wino. But they come  
18 up, Rascal comes up with Wino. Now he's solicited perjury  
19 twice and has apparently solicited murder of a material  
20 witness. Because two Aryan Brotherhood members are paroling  
21 to the Modesto area and Rascal, not Gary Littrell, Rascal  
22 pipes in and says, "Yeah, two shooters are going there to  
23 whack Wino from Modesto, the northern Mexican, the buster,"  
24 and when they say "busters," that's sod busters because that  
25 is a bad nickname for the Nuestra Familia or Northern Family  
26 or Northern Structure prison gang which he told you he was a  
27 member of, and we're talking about the guy who comes to  
28 court with cops in protective custody.

1           That's why I put on Officer Reuben Roman with the  
2 badge on his belts to show you yeah, he had been bringing  
3 Wino to court on previous occasions in protective custody.  
4 It corroborates that what this guy who doesn't even know  
5 Wino is right on, he's accurate, and the only way he could  
6 do that is to have heard it from somebody who was in court  
7 when it happened. Rubidoux wasn't in court when Wino came  
8 to court in protective custody on previous occasions. Guess  
9 who was, though. Him. (Mr. Fallman pointing to the  
10 defendant.) So unless Rubidoux is psychic, then he's  
11 telling the truth.

12           Gary then said Deadeye's defense will work because  
13 "there's no bottles and stoppers on the Erie Canal."  
14 There's no coppers on the tier. "To," in other words,  
15 "refute or rebut my version that this was self-defense."

16           Both defendant Rascal and co-conspirator accomplice  
17 Littrell said Wino delivered the wine up to Gary in Marsh's  
18 cell. That corroborates Ridinger and Contreras.

19           Rascal said the northern Mexican had to die because  
20 Gary thought Wino saw Gary choking March -- March -- Marsh.  
21 I wrote "March" but I meant "Marsh," in a leprechaun hold.  
22 Wino didn't say he saw that. Contreras didn't say he saw  
23 that. But Rascal said that Littrell thought he saw it.  
24 They were just wrong. He didn't really see that but they  
25 knew he'd been out there and one of them had seen -- one of  
26 them go by with a worried look on his face so they assumed  
27 that he'd actually seen the leprechaun hold so they --  
28 they -- they're gonna kill him because they know if he did

1 see him doing the strangulation he's an eye witness to the  
2 murder so they're gonna kill him for two reasons, number  
3 one, because Gary thinks he saw the actual strangulation,  
4 and number two, because he has testified both against  
5 Grizzle and Littrell at preliminary hearings and at  
6 Littrell's trial and he's willing to testify in this trial  
7 which he did.

8 Rubidoux said that he knew Aaron was an A.B.  
9 corroborating what we know from many sources including  
10 Healy.

11 Rubidoux said that he approached the D.A.'s Office  
12 through his own attorney by -- on advice of attorney George  
13 Mavris -- Mavris, local attorney. He's in the witness  
14 protection program too.

15 He says that the conversation about this -- all this  
16 stuff that we've just been talking about bottles and  
17 stoppers and all that occurred with both Littrell and the  
18 defendant Rascal in the attorney visiting when Mavris was  
19 late. Those records corroborate that. And he was in a  
20 holding cage. He said -- he admitted that he got immunity  
21 and witness protection.

22 We've talked about the tattoo about boxing. Let's  
23 talk about Gary Littrell's testimony.

24 Gary Littrell is a liar. For the following reasons.  
25 He says, "I had one cup and a sip." Science says he'd had  
26 none. Zero zero zero. He says, "My celly hit his head," to  
27 Officer Traylor heard by Ridinger. That's a lie. In front  
28 of you he says, "I choked him out. I wasn't about to let

1 him up. I used two garrotes on him," and -- and then he  
2 didn't say this but the implication is he destroyed evidence  
3 by flushing and cleaning the cell up for a little bit over  
4 an hour. No one, not Contreras, not Ridinger, not Traylor,  
5 not Weideman, these two officers, heard this alleged fight  
6 on the 23rd and that's because it didn't happen. It's a lie  
7 that the defendant tried to get Ridinger to tell and other  
8 people. Talked about that.

9 Oh, Littrell admits that he sent the manila folder  
10 with the -- that the pruno had been in that -- that  
11 they'd -- that was drunk by Marsh and he says he had a cup  
12 and a drink of. He says he sent it a cell and a half away.  
13 I said on the stand, "Was that Martinez?" Because when you  
14 look at the map, it was up there, and Martinez was the only  
15 one that was two doors away. He admitted it because he was  
16 forced to on a previous occasion. He wouldn't have but the  
17 map forced him to. He said, "Yeah, I sent it to Martinez's  
18 cell."

19 And guess what, if you look at all the stuff that was  
20 seized by Barneburg in the cell, and Baxter and Reppond, the  
21 manila folder never showed up and that's because it did go  
22 out to another -- he's probably telling the truth, it went  
23 out to another cell. That's why it wasn't found in the  
24 cell. We know the pruno was there because it was in the  
25 blood alcohol of the decedent. Are you gonna really believe  
26 Littrell's version of his lie, because he's much bigger,  
27 much stronger than Marsh.

28 Now -- well. Your Honor, would this be a good time



1 to break if --

2 THE COURT: All right, we'll break for lunch, ladies  
3 and gentlemen. We'll recess until 1:15.

4 Remember the admonition. One-fifteen. Court's  
5 recessed.

6 (Whereupon the noon recess was taken.)

7 THE COURT: We have in court all members of the jury,  
8 the attorneys and the defendant.

9 Mr. Fallman, you may continue.

10 MR. FALLMAN: Thank you, your Honor. Ladies and  
11 gentlemen, as -- as usually happens when I write out these  
12 messy things like notes for myself, by the time I get to the  
13 last couple of pages I realize I've already said what's on  
14 the last couple of pages so we're -- we're closer to the end  
15 of this torture than you might think. But it is an  
16 important case so I -- I do not wish to be remiss in my job.

17 I have a question which I've largely posed for myself  
18 and for you in this case, and can't -- can an evil man  
19 change, or at least in some ways. And we're talking  
20 obviously about Mr. Healy, just about as evil as whatever  
21 the definition of evil would be. Mr. Rubidoux, not so bad.  
22 Rubidoux will get out. Ridinger will get out. Contreras is  
23 out on parole. Clark will get out, but each with their own  
24 relative degrees of evil that you've clearly heard and they  
25 were all in Level 4 state prisons.

26 But at some point a conscience developed in all of  
27 them, or maybe as might sound sort of, you know, hokey, but  
28 it's called in some -- some sectors a still small voice and

1 I think that many of us believe that this is in every human  
2 being. Maybe in somebody like him it's like a tiny little  
3 flame and maybe in somebody like a Gandhi it's like a raging  
4 fire, but it's a voice within the person. And maybe people  
5 can change and Healy tells us it happened when he murdered  
6 his best friend. That was a turning point. Nothing else  
7 would have done it. And he says having done that, he would  
8 have come forward whether or not he'd been convicted.

9 Now, you're the judges of the facts, the total judges  
10 of facts. You're going to have to decide from -- from  
11 everything, the body language and the way these guys talked  
12 to you whether they were truthful with you, whether their  
13 stories are corroborated by other things. That's for you.

14 I -- I didn't really come to a position on him.  
15 Maybe there is one that you could think of. This guy  
16 came -- he came to his Waterloo point I guess you'd say when  
17 he realized from the defendant that the word "whack" didn't  
18 just mean stab the way it did back when they were both Nazi  
19 Lowriders. A.B. means kill. And that was a point beyond  
20 which he wouldn't go any further.

21 Contreras, he had to be nudged, he had to be sort  
22 of -- you know, let him know by the officers and himself  
23 that "hey, you did know that something wrong was going on  
24 because you made a statement to Segura that 'they're gonna  
25 whack the dude. I think they're gonna whack the dude,' and  
26 you knew you were carrying something more than just pruno  
27 because you'd seen what it was."

28 And this man who perjured himself in another case,

1 his still small voice wasn't gonna click on just for money.  
2 I mean, he would take that but it clicked on when it  
3 involved possibly a little girl. That was -- there's a  
4 point at which even these men change, at least some of them.  
5 Maybe not totally but -- maybe not people you'd ever invite  
6 over to dinner but something about them changes.

7 So my question to you, you got to go back in your  
8 own, our own Western Christian-Judeo traditions and ask  
9 yourself is this possible. Is this possible given the  
10 structure of the beliefs of our Western civilization that we  
11 all grew up with in this United States, is it possible, is  
12 there any precedent for this.

13 There's a very important book of law in ethics where  
14 there are so many examples of it, and somebody like I who  
15 shamefully didn't have a good background in it didn't know  
16 so I asked somebody who did. I asked Kelly Keefer from  
17 College of the Redwoods to help me with this because she  
18 knows this law which I should know more about and which  
19 hopefully you do know more about and she gave me these  
20 examples of these people who changed and we use these  
21 examples weekly Sundays and at night teaching our children,  
22 depending on what our religious backgrounds is, at least,  
23 that a man can change. Here are examples Kelly gave me.

24 Barabbas, the one that Pontius Pilate talked to the  
25 crowd, "You want to save Jesus Christ, you want to save that  
26 murderer?" "Give us the murderer." But the murderer  
27 changed. The experience let him for the first time hear his  
28 own still small voice and Barabbas changed.

1           Saul, read that tonight in your Bible about Saul.  
2       We're not -- no, you're not supposed to do anything outside  
3       of court. After the case is over read it, unless you  
4       remember it. Saul changed from a criminal into Paul the  
5       Beloved, the apostle.

6           Matthew, at one point a thieving tax collector,  
7       became a repentant writer of the Book of Matthew, or at  
8       least it's attributed to him. Some scholars say maybe  
9       somebody else wrote it. I don't know enough about the  
10      subject to say.

11          A second person who is a tax collector, I guess  
12      that -- having access to money is a real temptation to  
13      ignore a still small voice. Kelly tells me Zacchaeus was  
14      also a tax collector thief turned repentant Christian.

15          Now, I'm not trying to bring Christianity in here as  
16      a religion because I can't, under the First Amendment, of  
17      course, but on the other hand, there's nothing in the First  
18      Amendment that precludes talking about any particular  
19      subjects of philosophy or ethics or law from that  
20      perspective rather than mere religion or religion from the  
21      First Amendment point of view, because I don't mean the word  
22      "mere" when I say religion. Context gets tough here.

23          Another example, King David. If you want to look at  
24      the book of Samuel, Kelly reminds me that King David is  
25      technically a murderer. He knowingly sent -- I think it  
26      was -- oh, what was the lady's name? Bathsheba's husband,  
27      her married husband into Babylon knowing that the captain  
28      would be -- hoped that the husband would be killed so he

1 could make this lawful wife his concubine and that's what he  
2 did. But yet King David became one of the -- I think in the  
3 family from which the lineage of Jesus the Christ, and King  
4 David, a wise man and a good man, an example except in that  
5 one aspect, I think, that we talk to our children about in  
6 our Bible.

7 King Nebuchadnezzar Kelly tells me repented and  
8 relented on killing Daniel and several other Christians and  
9 perhaps became the first Babylonian Christian leader  
10 himself. I don't remember if she said Babylonian or  
11 Caledonian but those of you who know this law which is an  
12 important law, too, know better than I.

13 I can give you -- oh, wait a minute. Mary Magdalene,  
14 another -- perhaps if not criminal, certainly on the other  
15 side of moral law, who became a good example of -- we talk  
16 to our children about of how human nature can change.

17 So if the things, if the things that we teach to our  
18 children as examples many times over -- and these aren't all  
19 that are in the Bible which is what Kelly could find. Other  
20 people probably could find more. If this minimum number of  
21 at least eight examples means anything, then before you  
22 reject out of hand these bad guys, remember that some of our  
23 bad guys have turned out to be examples that we live by,  
24 that we tell our children about.

25 I'll give you two more. You remember the movie  
26 Gandhi? Gandhi was able to bring a murderer out of hell.  
27 Gandhi in -- near the end of the movie, you recall, he was  
28 lying in bed and he's fasting because the Hindus and the

1 Moslems are out there just wiping each other out in the  
2 street, and eventually this would cause India to split up  
3 into India and Pakistan and Bangladesh because of religious  
4 difference. But Gandhi wanted to hold a nation together  
5 under a common enemy, the British Colonialists, and Gandhi  
6 was lying in bed fasting and he says, "Until the two halves  
7 of my people quit fighting I'm going to fast," and he knew  
8 he was going to die. He was a frail little man and he was  
9 about to die anyway.

10 Nehru was in the room, I believe Nehru was a Hindu,  
11 and the great Moslem leaders were in the room also at the  
12 bed with Gandhi who is physically dying, and if you remember  
13 a man runs in and the first impression is "oh my God, an  
14 assassin is going to run in the room and jump between all  
15 these leaders and stab Gandhi," and we know, of course, an  
16 assassin later in the movie does kill Gandhi, but in this  
17 scene what we think is happening is not.

18 The man runs in and he looks deranged. You look at  
19 his face, and he's -- he puts his hand on Gandhi, they're  
20 gonna -- they're just gonna -- without waiting to hear what  
21 he's saying, these other people are gonna throw him out, get  
22 him out of there before he can hurt somebody and he says,  
23 "Father, Bapu, I need your help. Only you in the whole  
24 world can help me," and Gandhi, the perceptive person that  
25 he is, puts his hand on the head of this man who's leaning  
26 down there next to his bed and says, "What's wrong?" And  
27 the young man who's a Hindu who has come to Gandhi, head  
28 Hindu leader and more than that, just leader incarnation in

1 a way, says, "I am in hell. Only you can help me out of  
2 this." He says, "What did you do, my son?" "Well, in the  
3 riots out there I lost it. I lost it and I took a Moslem  
4 baby boy and I smashed his head against a wall and I killed  
5 him and now I'm in hell. Because I'm such a coward for what  
6 I did. I murdered a little boy for nothing. And I can't  
7 get out of hell. What can I do?"

8 And Gandhi says, "I have a way to get you out of  
9 hell. But you have to do what I say." And he puts his  
10 hands on his head and the man looks at him and he says,  
11 "I'll do anything, Father. What is it?" And he says,  
12 "Because of what my two halves of my family are doing in the  
13 street there are all kinds of orphans running around there,  
14 little boys whose parents were killed just like you killed a  
15 boy. Well, there's other families where there are boys but  
16 no parents who have been killed. You go out there and you  
17 get a little boy and you raise him as your own and you do  
18 the best you can with that little boy."

19 And he says, "Yes, Father, I will do that." And as  
20 the man starts to leave he says, "But there's only one  
21 catch. Raise him as a Moslem. Get a Moslem boy."

22 Now, this is a Hindu. The point is, that man had  
23 become a murderer but the still small voice in him came up,  
24 he wanted help, he wanted to change, and we have to assume  
25 he did.

26 One last one I'll tell about a change and this is  
27 more apropos. This is one I can personally talk about.  
28 This is of a man named Bobby Davis. Bobby Davis was an A.B.

1 Bobby Davis changed. He didn't totally change, I'm not  
2 saying those guys are totally changed, but those leopards  
3 did lose a few of their spots. Not all of them. And Bobby  
4 Davis was a very famous man. This is of the case of an  
5 Aryan Brotherhood member who shot four highway patrolmen  
6 down in San Diego and he's the man that caused police forces  
7 everywhere to go through -- if you watch those old Dragnet  
8 movies, Jack Webb, they're always using thirty-eights with  
9 six -- you know, revolvers. And nowadays you look at the  
10 cops, everybody's got a Glock or a Sigsauer or a Smith but  
11 it's always an automatic, well, the reason for that is cops  
12 learned from what Bobby Davis did to four highway patrolmen  
13 that they need to not be wasting time loading a revolver  
14 slowly. They need to be able to jam a clip in a gun and  
15 have another clip so they can fire.

16 Because Bobby Davis, as bad as he was, he was a math  
17 genius. Bobby Davis grew up in Tennessee and he spent  
18 almost all of his life in prisons or in reformatories back  
19 east until he hit California, but unfortunately for us he  
20 was out for a while and while he was out he and his partners  
21 got together and did a robbery and some crimes in the Santa  
22 Barbara area so they were in a shootout with the cops.

23 And Bobby Davis, you know how some people count cards  
24 over in Las Vegas and Reno? Bobby Davis counted bullets  
25 mathematically the way some people can keep track of cards  
26 when cards are dealt from the deck, and he knew the cops had  
27 fired 24 bullets and they were out. He and his friends ran  
28 up and killed them, but they ran up and shot the cops and



1 the cops were all four loading their guns and because of  
2 that they changed to automatics.

3 I tell you this story because I didn't represent  
4 Bobby Davis at that point, I represented Bobby Davis later  
5 after he was in Folsom Prison during -- for lifer hearings  
6 because he did like Healy. He did come before the Board of  
7 Parole once in awhile and would try to get out. He didn't  
8 get out. He had a right to a hearing but he -- but he would  
9 have his hearing.

10 I tell you this because even though Bobby Davis was  
11 an accomplice and a co-conspirator to killing four highway  
12 patrolmen, a still small voice came in Bobby Davis and he  
13 stopped the Aryan Brotherhood from killing a guard at  
14 Folsom. There was an old man who -- was about to retire, a  
15 correctional officer, and they -- they figured, "well, of  
16 the officers in the area where we are let's pick the weakest  
17 one, overpower him, take him captive and use him as a  
18 hostage and have them let us out and if they don't we'll  
19 kill him," and so the cowards that they were, they picked an  
20 elderly officer, somebody who was within a month or two of  
21 retiring.

22 Bobby Davis didn't like any cops at all. He killed  
23 four of them. But something came on in his mind. He went  
24 against the Aryan Brotherhood, he turned in the plot. He  
25 said, "Go in the cell so and so and you're gonna find what  
26 looks like a black gun. What it really is is a big old bar  
27 of soap that's been carved down into the shape of a gun and  
28 painted with shoe polish," but they were gonna use that to

1 try to overpower -- at least get control of this one guy,  
2 the elderly man. So he saved the guy's life and because of  
3 this the man -- this officer retired and was saved. He  
4 probably would have been killed.

5 And I said to Bobby Davis, I said, "Well, why in the  
6 heck would you save that cop?" Because -- what happened  
7 because of it, Bobby Davis thereafter asked for solitary  
8 confinement, he asked to be single-celled alone forever and  
9 that's what he did. And I said, "Why did you do that?" And  
10 he says, "Well, I figured I spent my whole life doing bad  
11 stuff and I killed four cops and now I'm getting older and I  
12 had a chance" -- I knew this would be my only chance in my  
13 life to give one back so I killed four and gave one back."  
14 That's his version of that still small voice flaming up at  
15 least a little bit.

16 Even the worst of them, under some circumstances they  
17 can do the right thing. That's all I'm asking you to think  
18 about in this case, has that happened and is it  
19 corroborated. You have to listen to your still small voice  
20 to decide that.

21 Most of this part we've talked about. So let me just  
22 go down it and see -- again, he said he never talked to the  
23 black man. The black man confirmed it.

24 Talked about the two murders that have been part of  
25 this conspiracy. Talked about the fact that he's now in the  
26 hat for the rest of his life as are all of them if they're  
27 found. Told you that Rascal agreed to take care of the hit  
28 on Marsh. And we've talked about Rascal following through

1 and asking Ridinger to do it. We've talked about that. The  
2 Joey Hayes thing and the twin. Talked about that. That.  
3 We've talked about everything. Thank you.

4 THE COURT: Mr. Clanton?

5 MR. CLANTON: Good afternoon, ladies and gentlemen.  
6 Before I begin my actual comments I'd just like to thank you  
7 for your time and your patience. It's been kind of a long  
8 case. It has been a complicated case and it is important  
9 that there are people willing to serve as jurors so -- the  
10 system wouldn't work without you so I'd just like to say  
11 thank you on that regard.

12 And then secondly, this is my last opportunity to  
13 address you in this entire case. The rules of court are  
14 such that the People because they have the burden of proof  
15 are gonna have another opportunity after I speak to address  
16 you. So what I would ask you at this time since we're all  
17 here to -- the common goal to try to give the fairest  
18 possible trial at all to Mr. Grizzle, just give me as much  
19 attention as you can in this late part of the day and try  
20 and recall my comments during rebuttal and try and reflect  
21 back on what points I might make during that rebuttal  
22 because I'm not going to get an opportunity to do that and I  
23 think it's only fair that my comments are at least  
24 considered at that point in the case, although I'm not gonna  
25 be there to do it personally, so it's a small favor I'd ask  
26 of you and with that I'll get on to my comments on the case.

27 Mr. Fallman when he opened -- opened up his case, in  
28 closing told you that Mr. Marsh had a right to life and to

1       wanting in the extreme. And I have no doubt that after you  
2       do that you'll come to the conclusion that another jury has  
3       already come to that Mr. Grizzle is innocent of these  
4       charges, there was not a conspiracy, this was a matter  
5       between Mr. Marsh and Mr. Littrell. Thank you.

6               THE COURT: All right, we'll recess ten minutes.  
7       Remember the admonition. Ten minutes.

8                       (A brief recess was taken.)

9               THE COURT: Okay, we have all jury members, the  
10       attorneys and the defendant.

11               Mr. Fallman?

12               MR. FALLMAN: Thank you, your Honor. Ladies and  
13       gentlemen, I want to take this opportunity to respond to  
14       some of Mr. Clanton's remarks. Very -- very important. I  
15       wouldn't have even mentioned this but since he did I think  
16       it needs to be pointed out that the other case has nothing  
17       to do with you. There's a jury instruction which basically  
18       says that but the way it was argued, I would like to at  
19       least briefly put it in perspective.

20               Mr. Clanton says this issue's already been decided.  
21       Well, if that were true, you wouldn't be here. You are not  
22       puppets. You have a real role and you have a solemn duty on  
23       both counts.

24               In the last case the jury found him not guilty of --  
25       Mr. Littrell not guilty of the conspiracy. That's Penal  
26       Code 182. They found him guilty of murder. You still have  
27       that option on both. There were slightly different evidence  
28       that was used in that case from this case. And we can't go

1 into why because there's a jury instruction that says that  
2 that is not relevant.

3 But one of the things we can talk about is something  
4 very big which happened last time. There was the perjured  
5 testimony of Mr. Clark testifying for Mr. Littrell. And it  
6 was paid for by that defendant. That defendant. Is the one  
7 who solicited him.

8 You have one huge bit of evidence that was not in  
9 front of the last jury. You now have Mr. Clark in the final  
10 version. And no matter what they say about him -- yeah, he  
11 probably was a liar when he was around Sergeant Miller, but  
12 one thing counsel danced around very artfully, he certainly  
13 didn't mention to you, was that Mr. Clark couldn't lie about  
14 something he didn't have any knowledge -- or something -- he  
15 couldn't lie about Shannon. He came up with the right name  
16 of the only daughter, the right age of the only daughter of  
17 the one witness that he had been hired to blindside over  
18 here, and indeed the Prosecution was blindsided by Mr. Clark  
19 on one count in the last case. It doesn't mean anything.

20 You have blinders on; you need not be blindsided.  
21 Look at all of this. These options are certainly open to  
22 you. And with that said you should ignore the last case.  
23 There's a difference.

24 I'll try to confine myself just to responding to  
25 things that Mr. Clanton brought up. He brought up -- he  
26 kept mentioning my name personally all the time, I did this,  
27 I was there, I showed up in vignettes, and at the end, all  
28 of this, I mean, if you listen to that whole thing it

1       sounded like a case of the People of the State of California  
2       versus James Fallman. I don't know that that case has ever  
3       been charged. I think we stay on track, we stay focused and  
4       don't get pulled off onto that side road, the case you're  
5       here to decide is People versus the defendant. Mr. Grizzle.  
6       Elliott Scott Grizzle.

7               And here is what logic, if any, a person could --  
8       that I at least would think a person would draw from what  
9       you heard of the evidence about the deal for fifty years  
10       four months for Mr. Healy. I think he said he was 35. His  
11       MERD, M-E-R-D, most early -- or most early possible release  
12       date is 2037. That makes him 72, and if he behaved badly  
13       and it were 2041 that would make him 75 when he gets out.  
14       This is the earliest he could, and if -- if he gets out the  
15       earliest he gets out in is 72. With Hepatitis-C, that -- I  
16       never heard of that before until he said he had it on the  
17       stand. But if he in fact does have Hepatitis-C he probably  
18       won't live to make it in the prison environment for that  
19       time.

20               Yeah, he does have a tan a little bit more than when  
21       he was in Pelican Bay but he told you he is still in SHU.  
22       He is in SHU but he's in SHU in a warmer climate in federal  
23       custody, and that's why the federal marshals were here  
24       before. Counsel said he was all dressed in street clothes;  
25       well, I think you saw that he was shackled. It's not as if  
26       Mr. Healy has a free right. He is still in heavy protective  
27       federal SHU somewhere else, and even if that -- we didn't  
28       know about that the likelihood of that, if -- from -- from

1 the Prosecution's perspective it is well worth taking a  
2 chance that this person will not make it that long if  
3 they're gonna be the one person who's gonna help take down  
4 this group of rascals.

5 Dr. Lawrence and Dr. Falconer, well, the big picture  
6 of the things on the neck, counsel correctly said it to you.  
7 Again, but it's what he left out. If you play that back, if  
8 you have the testimony of Falconer and Lawrence, the two  
9 pathologists, played back you will remember Dr. Falconer  
10 saying that this stuff when I showed him the picture could  
11 be consistent with a self-induced abrasion and counsel told  
12 you that Dr. Lawrence accepted it was consistent with the  
13 way Littrell had told it in a previous transcript, but on  
14 cross-examination the doctor quite honestly I feel answered  
15 my question which was "could it be consistent with other  
16 scenarios?" "Yes." "Could it be consistent with  
17 self-induced abrasion?" "Yes." So these two pathologists  
18 both said it could have been self-induced.

19 M.T.A. Lara. If you look at the tape, the video  
20 which we've all forgotten to talk about where the sound was  
21 down -- since the judge didn't allow that sound up, when you  
22 go in the jury room please don't turn the sound up. Leave  
23 it off. Don't -- I mean, even though there's sound on  
24 there, just play it, if you use it at all, the way you did  
25 in court. No sound, okay? Because that's how the judge  
26 said it was so keep the sound off.

27 I wouldn't have mentioned it at all, I would have  
28 totally forgot it, but on it that blond lady who's working

1 over the corpse of Aaron Marsh when they're going into the  
2 cell is M.T.A. Lara. Now, she told you that she has since  
3 moved to Corcoran II. She's now a nurse down there in  
4 Corcoran II. If you want to speculate on how many cases she  
5 has had since July of 1997 both here and -- at Pelican Bay  
6 while she was here and then after she went down there to  
7 Corcoran, probably she had one case a day, that would be a  
8 lot of cases; wouldn't it? She's probably handled hundreds  
9 of cases, and without looking at her reports -- (Shaking  
10 head) -- you know, what -- why would this case be that big  
11 of a thing for her.

12 One of the things I remember her saying about every  
13 one of those marks, I showed her all those pictures and I  
14 said, "Are all those marks consistent with what you saw?"  
15 "Yes, they are." And then I said, real important, "On your  
16 report in front of every one of those things that you found  
17 you had the initials 's-u-p,' period. What does 's-u-p'  
18 mean, Miss Lara?" She said, "It means superficial," and I  
19 think that's what you see when you -- when your own eyes  
20 corroborate what she told you, superficial on the body of  
21 Mr. Littrell. We're talking about Littrell.

22 Counsel said that only desperation on the part of  
23 Healy, Clark, Contreras, Ridinger and Rubidoux brought them  
24 to do the right thing. That they did it only for themselves  
25 to get out of SHU. Well, counsel also told you -- I think  
26 he tacitly admitted to you, the bottom line, and if he  
27 didn't you've heard the bottom line even though you heard it  
28 from five different people and you may not have put it



1 together at that time. Out of those five people we just  
2 mentioned, those five inmate witnesses, only one of them is  
3 gonna be in prison for the rest of his life and that's Mr.  
4 Healy. Well, maybe not. But -- the effect -- the effective  
5 rest of his life. Those others were all due to get out  
6 shortly anyway. They would have gotten out of SHU within a  
7 short period anyway.

8 Ridinger was actually on the mainline when he  
9 approached the sergeant. I believe that came out in the  
10 trial. He wasn't even in SHU at the time. He had been, it  
11 is true, during part of the period he had been in SHU.

12 Contreras has discharged. Yes, we will make a  
13 recommendation to the Madera D.A. about the half gram of  
14 methamphetamine and the small amount of marijuana and  
15 whatever the smoking device that he was found with, yeah,  
16 because I think it's in the interests of justice for him to  
17 put his life for the rest of his life in danger and come  
18 forward and try to help. In order to take down an organized  
19 conspirator, just the part of it we can deal with today, the  
20 part that you can deal with, one part of that conspiracy.  
21 I -- (Nodding.) That's -- yeah, right out on the table I  
22 think that's absolutely the right thing to make a call down  
23 to the D.A. and tell them what he did and encourage them to  
24 give him a break.

25 And about Mr. Clark, yes, I'm absolutely trying every  
26 way I possibly can, although it's not in my hands, but as  
27 much as I can encourage the powers that deal with where a  
28 man paroles, I hope that Mr. Clark, and I will try to help

1 him parole out of state, because imagine yourself being a  
2 black person having testified against one of the biggest  
3 white supremists' organized crime gangs in the country, if  
4 not the world. Wouldn't -- wouldn't you want to get out of  
5 state or get as far away as you could and parole out of  
6 state? Yeah, I think that's in the interests of justice so  
7 if that's a crime, I'm guilty of that. I'll try to help him  
8 get parole out of state.

9 Why didn't we bother to put to Special Agent Smith  
10 the one question, "Was Grizzle an A.B.?" Why didn't we ask  
11 Captain Dillinger -- or Captain Dillard. I don't know why I  
12 put "Dillinger." Dillard -- nature of this case I think.  
13 Captain Dillard the question? Well, number one, Dillard,  
14 they called him as their witness so it wasn't even on my  
15 mind. In fact, the last question if you remember that I  
16 asked him was, "By the way, are you the head of the gang  
17 unit out there?" I hadn't even really been thinking of him  
18 in that context because I had plenty of other people and I  
19 didn't bother to ask this witness that although I could  
20 have. Simply because Healy'd already told us that he was an  
21 A.B., Rubidoux had already told us he was an A.B. and  
22 Ridinger had already told us he was an A.B. in the  
23 conversation in which he was asking this guy if he wanted to  
24 move up from the tip and "do you want to whack this guy for  
25 us? Do you want to whack Marsh? The doors could be opened.  
26 I'll ask Gary if there's a way to open the doors," so we had  
27 that through three witnesses. How many times do you have to  
28 step on -- step on a dead bug to kill it? I mean, the issue

1       that -- the issue to me was -- was already out. So  
2       that's -- that's the answer to why if he wants to know why.

3               And, a statement out of Grizzle's mouth if you  
4       believe Ridinger was "we A.B. don't whack people that way.  
5       We don't do it that way. 'Whack' doesn't mean stab, it  
6       means kill." He confessed, he admitted to Ridinger he was  
7       an A.B., so if you believe Ridinger that issue's covered  
8       three ways.

9               Now, what about Captain Dillard taking some time and  
10       finally moving these two guys in there? Well, we had  
11       testimony and I firmly -- I frankly can't remember where it  
12       came from but one of the witnesses said, "We don't normally  
13       mix people of different races and we try to put people that  
14       are in there that are compatible," and apparently since Mr.  
15       Stinson has -- one of those people has had one of the other  
16       ones, I think Mr. Terflinger, for a cellmate for years, I  
17       don't think that the prison has any problem putting two  
18       A.B.'s in there because before Healy did the hit on Ruffo  
19       the A.B.'s weren't killing each other. There was no reason  
20       to not put them together.

21              And at the time of the Marsh thing, Marsh was still  
22       alive, so the only track record for A.B.'s killing that the  
23       prison would have been aware of was Healy and Ruffo. It was  
24       a one-time thing. They didn't realize it. The pattern had  
25       started so I think that's probably -- I can't get into the  
26       mind of Captain Dillard but I think that's a reasonable  
27       inference to draw as to why they put them together, because  
28       these guys can live together.

1           We know they've done it because apparently the A.B.  
2 encourages that. They have a pattern of putting experienced  
3 A.B. with a new one for training and schooling. And  
4 apparently they live through it and have grown as an  
5 organization and -- successfully school their new recruits  
6 so they must have been able to cell compatibly in cells  
7 before. That's probably what the answer is to counsel's  
8 question.

9           Marsh wanting to come over. Well, if Marsh was an  
10 A.B. as everybody agrees, both sides, then Marsh is not  
11 going to know when he's coming over that the Council via  
12 Rick Terflinger has put him in the hat. The A.B.'s not  
13 going to say, "Hey, come over because you're in the hat."  
14 They're just going to say, "Hey, come over for schooling,"  
15 or for whatever reason, "Come over." And A.B.'s want to  
16 cell with each other. I think that's the reasonable answer  
17 to that.

18           Ridinger, why would he -- he described -- he answered  
19 this but let's make sure we go through it because obviously  
20 our minds hopefully don't work the way convicts' minds work  
21 or we'd -- thank God our minds don't work that way. What's  
22 the psychology of knowing you're in the hat because you  
23 raised your hand and then backed down and then agreeing  
24 anyway to go and move in. The answer is, and he told us, "I  
25 wasn't really gonna go in. I was gonna go get moved in and  
26 while the guard was there I was gonna attack him. I was  
27 gonna rush him at the cell door."

28           What that would do, it would cause them to move him

1       into protective custody which would actually protect him.  
2       Because since he knows he's in the hat, what he does is he  
3       creates a fight. The fight is an infraction that forces  
4       them to put him in -- in -- in security housing which is  
5       what he wants, because if he goes out to the mainline the  
6       A.B.'s got the word out to all kinds of soldiers to whack  
7       him, but if he can get in protective custody for the short  
8       period he has left on his sentence he stays alive.

9               And that SHU is not in some respects the huge hell  
10       for everyone that it is for most. For a normal person  
11       living that way would be absolute hell, but for somebody  
12       who's on -- who's on the hit list and who has a chance to  
13       parole someday like Ridinger SHU is a wonderful place,  
14       because if you get single-celled in there and you're in the  
15       hat nobody can get to you to whack you and if you can live  
16       in that single-celled place alone long enough for your  
17       parole date to come around then you can get out on the  
18       street. That's it. And that's what will happen in his  
19       case.

20               The letter, this letter right here of Ridinger, he  
21       told you why he wrote this. He's been in the prison system  
22       and he knows that they have a gang unit. Officer Willis was  
23       on the gang unit. Captain Dillard is the new head of the  
24       gang unit. Not only does that gang unit try to look at  
25       everything they do, but in Sacramento, the big gang unit is  
26       looking over what every one of the thirty-one plus prison  
27       gangs are looking at, and what the prison gangs' units are  
28       looking at, they monitor the mail and Ridinger told you

1       that. They monitor the mail. This was another artifice to  
2       get put into protective custody.

3               He didn't bother to put it in code. He puts it right  
4       out there, puts in names because one of the ways that you  
5       get put in SHU if you haven't actually done a crime or  
6       created an incident to get put in like he was -- like he  
7       would have done if it had worked at the cell door then  
8       another way is to become a validated gang member. One of  
9       the ways that you get to become validated is to wear tattoos  
10      on you like "N.L.R." or "A.B." or that stuff that can get  
11      you validated. Another way to get validated is to send out  
12      something in your own handwriting admitting you're in a  
13      gang.

14             So he lists major A.B. people in here. He talks  
15      about -- let's just see. Then he goes, "White respects  
16      N.L.R." or -- yeah. And he's talking about the Big G which  
17      would be Gary Littrell, and the Big T which is either Turtle  
18      or Rick Terflinger, I don't know, but either way Terflinger  
19      and -- Turtle were both -- Harper, Joe Harper were both  
20      A.B.'s. By mentioning this stuff he gives them a way to  
21      validate him. If they validate him he gets thrown into  
22      protective, he gets thrown into SHU in isolation until he  
23      paroles which he's going to do shortly. That's what he told  
24      you.

25             That's -- he is aware -- you and I have -- nobody can  
26      monitor our mail because we haven't lost any of our civil  
27      rights but in prison, under the police power, I think it's  
28      the Tenth Amendment the prisons have a right to go through

1 people's mail all the time. The only mail they can't go  
2 through is mail -- attorney mail, but they can go through --  
3 I don't know if they can go through mail to your priest or  
4 not but -- I know they can't go through your attorney mail  
5 but they can go through your private mail. If you send a  
6 letter to someone they can go through it and that's what  
7 happens and he knew the gang unit monitored the mail.  
8 That's what I think the proper answer is to that.

9 All right, let's see. Now, Mr. Clanton's next point  
10 was that Contreras was lying to you because in his mind's  
11 eye he said gray manila folder with the pruno inside the  
12 tied whatever it was. Mr. Contreras would not overstate his  
13 case. Mr. Contreras said the book was this color and soft  
14 but he couldn't swear it was this book. Mr. Contreras who  
15 was wrong when he thought it wasn't this book turned out to  
16 be right, it was this book, because Gary Littrell tells us  
17 that Contreras was right even though Contreras thought he  
18 was wrong and wouldn't go too far because he thought he  
19 might accidentally lie to you if he said yeah, that was  
20 definitely the book. It was just his flawed perception on a  
21 tiny issue. "The book's the right shape. Part of the  
22 colors are right but I can't swear it's the book." Turns  
23 out he was right even though he thought he was wrong it was  
24 the book.

25 On the manila envelope that he said was gray he said  
26 it was a gray manila. It turns out at the prison most of  
27 them apparently are yellow, not gray, but his perception he  
28 wouldn't change. At the preliminary hearing he's always

1       said gray and they've always attacked him and he's never  
2       changed it because that's what he remembers. He can't say  
3       it more than he saw. He can't say less than he remembers.  
4       His perception is probably flawed in a tiny way there but  
5       only on one issue, the color. The same way it was wrong  
6       here as to his memory but right in fact, and I suspect he  
7       was right in fact on the other one on everything except the  
8       color.

9               These conspirators used Mark's -- Marsh's own  
10       weakness as an easy way to kill him. They knew he was an  
11       alcoholic. All these cops talked about him being an  
12       alcoholic for pruno. And what do you do? You put something  
13       in something that an alcoholic can't resist drinking. How  
14       would you kill somebody with a rifle if you had plenty of  
15       time to think it out? Would you just shoot them and take a  
16       chance on -- in their own house or something getting caught?  
17       Or would you find out if they're a hunter and go out in a  
18       place where there's nobody around except you and them and  
19       have a hunting accident. That's what happened here in the  
20       cell. Closed environment and used an instrumentality that  
21       the person wouldn't be scared of. "Oh, pruno, I drink  
22       that." Hunter? "Oh, rifle, yeah, I don't have any reason  
23       not to be around you and a rifle. We're both hunters."

24               Dagenais said you can communicate in that attorney  
25       visiting even though the music's on and he didn't --  
26       remember Officer Dagenais? He didn't go with that blaring.  
27       This man, counsel, kept blaring. His argument was very  
28       good. It was very interesting. And my amusement endorphins



1        were firing during it but it was overstated. It was  
2        hyperbole and the word "blaring" was not what Dagenais said.  
3        Dagenais never bought into that and said, "No." Every time  
4        he tried to put that word in his mouth about that music,  
5        Dagenais said you can hear. You can communicate.

6                And what about the officer sitting at the desk? The  
7        officer's got work to do. He's got logs to keep. He can't  
8        work and keep sitting there listening to all those inmates  
9        in all those booths all day coming in and out. And even if  
10       he could sit there listening to that conversation he's not  
11       going to know what bottles and stoppers on Erie Canals mean  
12       and he's not going to know what Deadeye took a dive -- first  
13       of all, he's not necessarily going to know who Deadeye is  
14       because officers call inmates by their name, Inmate Healy.  
15       They don't call 'em Deadeye. Deadeye is what the cons call  
16       each other. And taking a dive without a context could mean  
17       a lot of things. So even if the officer heard it, with  
18       those two statements that were made there people wouldn't  
19       have understood it.

20               Clark. He talks about the statement that was given,  
21       a short summary. That's correct; it was short. And the man  
22       from the stand did truthfully say -- did say truthfully as  
23       counsel -- counsel was very correct in -- when he says that  
24       Clark came out with more information in front of you than he  
25       put in that short summary that we received from the cops.  
26       But the key thing -- and I just have to make -- please think  
27       of this -- is what he came up with is the name and the age  
28       of Shannon. If it hadn't happened by -- through A.B.,

1 through this man which is who he said paid him to do this,  
2 how could he have known the age of the kid and the name of  
3 the kid of Healy, the one that they used him to discredit  
4 and blindside us in that other case? He can't lie on that  
5 issue even if he's the liar of the century, which he may be.  
6 In fact, he did perjure himself in the first case on this,  
7 on the Littrell -- he did perjure himself but he didn't lie  
8 about Shannon or else he's the best psychic I know. He got  
9 her age, her name and she's an only kid and got the sex  
10 right, that she's the daughter of Brian Healy.

11 This document, this document, the content of it is no  
12 big thing. The reason it's relevant is because again,  
13 Clark -- now, you can read through the -- Clark, the -- the  
14 big argument is that Clark is lying, there was no  
15 relationship between -- since Clark lied in this case the  
16 defense would you have believe Clark is lying here, he can't  
17 be believed; there's no connection whatsoever between  
18 Grizzle and Clark; this is bull; it's just something that's  
19 Johnny-come-lately trying to get him out on state parole.  
20 That shows there was a preexisting relationship between  
21 Clark and not the man in the moon but the Rascal. And why  
22 that's important is the Rascal is a white supremacist Aryan  
23 Brotherhood member who hates black people, who hates Jewish  
24 people, who hates anybody who isn't an Aryan member like  
25 Hitler.

26 Talked about -- and why in the heck would he write an  
27 affidavit to support a legal 602 document of a black man if  
28 he's in the Aryan Brotherhood unless they have a preexisting

1 relationship based in this case? On not love, not race,  
2 but -- they're using the black man not because they like him  
3 but they think he has a source on the outside where they can  
4 get information to kill a relative of somebody that's  
5 testified against 'em. Total manipulation and use,  
6 relationship. Don't have to believe Clark that there was a  
7 preexisting relationship. Believe Grizzle.

8         McKinney said you can communicate in that 12-foot  
9 distance and that you could see part of the body. Mr.  
10 Fuller for the defense conceded that you could at least see  
11 the body as a shape. I don't know, he was vague, but I  
12 think putting those two together -- and have the court  
13 reporter play those back if you're in doubt. I suspect that  
14 the communication over that 12-foot distance did take place.  
15 Beyond a reasonable doubt.

16         Let me go over a few of these real quickly with you.  
17 Look at this one, two oh four, when you're in the jury room,  
18 "Efforts by the defendant to fabricate evidence. If you  
19 find the defendant tried to persuade a witness to testify  
20 falsely, such conduct may be considered by you as a  
21 circumstance tending to show consciousness of guilt." Well,  
22 if Ridinger is telling you the truth, that man asked him to  
23 lie about the 23rd incident which didn't happen with a slap  
24 in the face with the TV thing, and if you believe Clark,  
25 that man caused \$500 to be paid for a lie to -- to -- which  
26 was 50 percent successful in the first half of case and it  
27 wasn't even Grizzle's case. It was his co-conspirator. The  
28 fact that he would interfere in that case shows

1 relationship, connectedness, co-conspiratorial aspect.

2 "Unjoined perpetrators of the same crime." Littrell,  
3 Ridinger, Contreras, Healy, Griffin, Stinson, Terf -- well,  
4 this whole bunch. Why? Littrell's already been tried.  
5 Contreras and Healy have immunity.

6 "Pre-offense statement by the defendant." Well, a  
7 statement where the defendant Mr. Grizzle solicits Ridinger  
8 to tell a lie for Littrell, where the defendant solicits  
9 Ridinger to whack Marsh, and telling Healy after he receives  
10 the word from Terflinger to do the hit, "Yeah, I'll take  
11 care of it." He didn't say he'd do it himself. He said  
12 he'd have it taken care of, exactly what happened. Somebody  
13 else did it. Back when they were cellies, cellies in 118.

14 "Principals." This is a real important one.  
15 "Persons concerned in the commission of the crime are  
16 equally guilty." That's why this option is open and there's  
17 a difference. "Those who directly and actively commit a  
18 crime." That's Littrell. He did the strangling. "Those  
19 who aid and abet the commission of the crime." That's  
20 Rascal. But either way, you can find him guilty. You  
21 should find him guilty.

22 "Aiding and abetting. Person aids and abets when he,  
23 with knowledge of the unlawful purpose" -- they know this is  
24 who they're going to get. They know the purpose. "With the  
25 intent of encouraging, facilitating the crime," the powder  
26 in there so it isn't being done in front of the victim who's  
27 now celled with the guy that's going to do the strangling.  
28 "Aids; promotes and encourages," has Contreras takes it down

1       there.

2               "Person who aids and abets need not be personally  
3       present." He wasn't down there. He was in 118 and the  
4       crime was going on up in 218 and he was asking Contreras  
5       what's going on up there because he knows what's going to  
6       happen, he just doesn't know when. "Your celly looks pretty  
7       messed up," or "your homeboy looks pretty messed up."

8               "Accomplice defined. An accomplice is a person  
9       subject to prosecution for the identical offenses charged  
10      against the defendant by reason of the aiding and abetting  
11      or being a member of a conspiracy." Accomplice would be  
12      Gary Littrell. Other accomplices would be Healy for  
13      relaying the message, Council of six for sending the  
14      message, Terflinger for relaying the message to Healy,  
15      Contreras for knowingly transporting the alcohol with the  
16      prescription in it and then saying, "I think they're gonna  
17      whack him," to Segura. But -- the important one is Littrell  
18      but all of the above.

19              The conspiracy, do we have it? "Conspiracy is an  
20      agreement between two or more." Well, the conspiracy is a  
21      huge one just like the Mafia, but conspiracy, it's the  
22      illegal agreement to commit the murder in this case followed  
23      by at least one overt act in furtherance of the conspiracy.  
24      Did these four overt acts happen? The law says you only  
25      need find one of them to have happened. If there was that  
26      illegal agreement to murder plus one overt act and you can  
27      find him guilty of the conspiracy itself. In this case I  
28      think you would -- on this evidence find that all four of

1       them happened as charged. If only one happened that would  
2       be enough.

3               What are the four? Did this happen? Did defendant  
4       Grizzle dissolve prescription drugs in inmate-manufactured  
5       alcohol to make Marsh drunk, vulnerable and unable to defend  
6       himself? We heard Dr. Thor talk about the synergistic  
7       effect of a muscle relaxant, the methocarbamol plus alcohol.  
8       Boom. You're just -- you're gonna be reacting the way that  
9       Contreras saw, uncoordinated. And then you're gonna --  
10      that's why he said, "That dude's" -- "your homeboy's messed  
11      up."

12             Second one, Grizzle causes Contreras to deliver the  
13      drug-laden alcohol to Marsh in the manila folder. Did that  
14      happen?

15             Littrell got victim Marsh drunk and physically  
16      disabled him with the drugs and alcohol. Did that happen?

17             And the fourth one, Littrell strangled Marsh with the  
18      garrote. Well, I guess it should be two garrotes but one  
19      garrote at least while Marsh was too drunk from the drugs  
20      and alcohol to defend himself.

21             All four of those are made but the law would allow  
22      you to find him guilty of the conspiracy if you only found  
23      him guilty of one of those on the conspiracy count, only one  
24      overt act as long as the unlawful agreement to murder is  
25      found by you.

26             I'm almost through. In the conspiracy, like the  
27      accomplice theory, it's joint responsibility. Each member  
28      of this conspiracy is "liable for each act and bound by each

1 declaration of every other member of the conspiracy.

2 "The act of one co-conspirator pursuant to the common  
3 design, the design to kill, is the act of all." So he  
4 doesn't have to be doing the strangling as long as he was a  
5 co-conspirator with the same intent. John Gotti can be  
6 sitting in his penthouse in Florida or New Jersey and call a  
7 hit in San Diego and he's just as guilty of murder as the  
8 guy that pulls the trigger in San Diego. If they're  
9 co-conspirators. If they have the same criminal intent  
10 they're both guilty and that's -- that's the same thing  
11 here.

12 He does not have to be at the scene of the crime. He  
13 wasn't. He doesn't have to know, have an acquaintance with  
14 all co-conspirators, not necessary. Well, heck, Mafia  
15 members don't all know each other. They're all over the  
16 world. A.B. doesn't know each other. They're in federal,  
17 state prisons all over the country.

18 Murder. Have we proved these things to you beyond a  
19 reasonable doubt? That a human being was killed? That the  
20 killing was unlawful? And that it was done with malice  
21 aforethought? And that this person was an accomplice, aider  
22 and abettor within those earlier definitions?

23 "Malice aforethought is express when there is a  
24 manifested intention to kill." Is that what they were doing  
25 here? Is that what they told Ridinger? Is that what Healy  
26 told them to do? Express an intent to kill? Malice  
27 aforethought does not require ill will. They could have  
28 liked the guy. They probably loved him. But since the

1 Council said kill him they got to kill him. They don't have  
2 to dislike him.

3 Malice aforethought. It's just having the intent to  
4 kill even if -- on a mercy kill. I'm not talking --  
5 about -- that's a bad analogy.

6 "The word 'aforethought' does not imply deliberation  
7 or a lapse of time. It only means the required mental state  
8 must precede rather than follow the act." Well, we know it  
9 preceded a long time because he knew Marsh way before the  
10 time he asked him to whack him, he was asking and he didn't  
11 die until they moved.

12 The other one went to penalty. You're not to -- this  
13 is not a capital case so this says you must not discuss the  
14 penalty. Whatever it might be.

15 Ladies and gentlemen, please go in there and  
16 conscientiously do the best you can with this case. Let's  
17 see what we can do about this group. Thank you.

18 THE COURT: You shall now retire and select one of  
19 your number to act as foreperson. He or she will preside  
20 over your deliberations. In order to reach a verdict, all  
21 twelve jurors must agree to the decision. As soon as all of  
22 you have agreed upon a verdict so that, when polled, each  
23 may state truthfully that the verdict expresses his or her  
24 vote, have it dated and signed by your foreperson and then  
25 return with it to this courtroom. Return any unsigned  
26 verdict forms.

27 And counsel, have you submitted verdict -- prepared  
28 the verdict forms?